









LEGISLATIVE ASSEMBLY
OF ONTARIO

SECOND SESSION
THIRTY-SECOND PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

SESSION

MARCH 9th to JULY 7th, 1982
and
SEPTEMBER 21st to DECEMBER 21st, 1982
and
JANUARY 17th to FEBRUARY 23rd, 1983



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SECOND SESSION THIRTY-SECOND PARLIAMENT

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2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Motor Vehicle Dealers Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The new provision authorizes the Lieutenant Governor in Council to make regulations establishing a compensation fund

BILL 130

1982

An Act to amend the Motor Vehicle Dealers Act

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

1. Section 1 of the *Motor Vehicle Dealers Act*, being chapter 299 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:
 - (ca) "Fund" means the Motor Vehicle Dealers Compensation Fund established under clause 24 (o).
2. Section 24 of the said Act is amended by adding thereto the following clauses:
 - (o) providing for the establishment, maintenance and administration of the Motor Vehicle Dealers Compensation Fund including prescribing provisions relating to investing and paying out of money from the Fund;
 - (p) providing for the payment of levies into the Fund by participants and prescribing the amounts thereof,
 - (q) providing for payment out of the Fund of claims and procedures to be followed in respect thereto,
 - (r) requiring participation in the Fund by motor vehicle dealers
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is the *Motor Vehicle Dealers Amendment Act, 1982*.

An Act to amend the
Motor Vehicle Dealers Act

1st Reading

June 3rd, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Registry Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

Section 38 of the Act deals with the registration, with a certified English translation, of instruments or affidavits of execution in languages other than English. The provision as recast broadens the application of the section to include documents as well as related attachments.

The new provisions permit the registration of instruments and deposit of documents in a prescribed form and provide for a French-English lexicon to be prescribed. The prescribed forms need not be in English.

An Act to amend the Registry Act

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

1. Section 38 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: ^{s. 38, re-enacted}

38. Where an instrument, document or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, document or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation. ^{Registrations in languages other than English}

38a.—(1) Notwithstanding section 38, where an instrument, document or related attachment is in a prescribed form, the instrument may be registered or the document deposited if, ^{Registration of instruments and documents in French language}

- (a) the instrument or document affects the title to land in a registry division or part thereof that is designated by regulation; and
- (b) the instrument or document is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing the forms of instruments, documents and related attachments for the purposes of this section;
- (b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, documents and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;

(c) designating registry divisions or parts thereof for the purpose of this section;

(d) prescribing terms and conditions for the registration of instruments or deposit of documents under subsection (1);

(e) designating any Act for the purpose of subsection (4).

Interpre-
tation

(3) In sections 38 and 38a, "document" has the same meaning as it has in Part II.

Mean-
ing

(4) In this section, "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

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 *Registry Amendment Act, 1982*.







An Act to amend the Registry Act

1st Reading

June 3rd, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 131

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Registry Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations



An Act to amend the Registry Act

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

1. Section 38 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 38, re-enacted

38. Where an instrument, document or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, document or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation. Registrations in languages other than English

38a.—(1) Notwithstanding section 38, where an instrument, document or related attachment is in a prescribed form, the instrument may be registered or the document deposited if, Registration of instruments and documents in French language

- (a) the instrument or document affects the title to land in a registry division or part thereof that is designated by regulation; and
- (b) the instrument or document is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the forms of instruments, documents and related attachments for the purposes of this section,
- (b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, documents and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law.

(c) designating registry divisions or parts thereof for the purpose of this section;

(d) prescribing terms and conditions for the registration of instruments or deposit of documents under subsection (1);

(e) designating any Act for the purpose of subsection (4).

Interpre-
tation

(3) In sections 38 and 38a, "document" has the same meaning as it has in Part II.

Idem

(4) In this section, "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

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 *Registry Amendment Act, 1982*.







An Act to amend the Registry Act

1st Reading

June 3rd, 1982

2nd Reading

November 2nd, 1982

3rd Reading

November 16th, 1982

**THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations**

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Land Titles Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The new provisions permit the registration, with a certified English translation, of instruments and applications in a language other than English. They also permit registration of instruments and applications in a prescribed form and provide for a French-English lexicon to be prescribed. The prescribed forms need not be in English.

An Act to amend the Land Titles Act

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

1. The *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections: ss. 85a, 85b, enacted

85a. Where an instrument, application or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, application or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation. Registering instruments in foreign languages

85b.—(1) Notwithstanding section 85a, where an instrument, application or related attachment is in a prescribed form, the instrument or application may be registered or deposited, if, Registration of instruments in a prescribed form

- (a) the instrument or application affects land in a land titles division or part thereof that is designated by regulation; and
- (b) the instrument or application is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the forms of instruments, applications and related attachments for the purpose of this section;
- (b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, applications and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;

- (c) designating land titles divisions or parts thereof for the purpose of this section;
- (d) prescribing terms and conditions for the registration and deposit of instruments and applications under subsection (1);
- (e) designating any Act for the purpose of clause (3) (b).

Interpre-
tation

(3) In this section,

- (a) "instrument" includes any plan submitted for registration or deposit under this Act;
- (b) "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

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 *Land Titles Amendment Act, 1982*.







An Act to amend the Land Titles Act

1st Reading

June 3rd, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 132

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Land Titles Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

TORONTO

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An Act to amend the Land Titles Act

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

1. The *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

85a. Where an instrument, application or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, application or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation.

ss. 85a, 85b.
enacted

Registrations
in languages
other than
English

85b.—(1) Notwithstanding section 85a, where an instrument, application or related attachment is in a prescribed form, the instrument or application may be registered or deposited, if,

Registration
of instruments
and applications
in French
language

- (a) the instrument or application affects land in a land titles division or part thereof that is designated by regulation; and
- (b) the instrument or application is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the forms of instruments, applications and related attachments for the purpose of this section;
- (b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, applications and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;

(c) designating land titles divisions or parts thereof for the purpose of this section;

(d) prescribing terms and conditions for the registration and deposit of instruments and applications under subsection (1);

(e) designating any Act for the purpose of clause (3) (b).

Interpre-
tation

(3) In this section,

(a) "instrument" includes any plan submitted for registration or deposit under this Act;

(b) "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

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 *Land Titles Amendment Act, 1982*.







An Act to amend the Land Titles Act

1st Reading

June 3rd, 1982

2nd Reading

November 2nd, 1982

3rd Reading

November 16th, 1982

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to authorize Municipalities to obtain the Opinions of
Electors with respect to Nuclear Disarmament**

MR. EPP

EXPLANATORY NOTE

The Bill would authorize municipalities to include a question concerning nuclear disarmament on election ballots.

BILL 133

1982

**An Act to authorize Municipalities to obtain
the Opinions of Electors with respect to
Nuclear Disarmament**

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

1. Despite paragraph 25 of section 208 of the *Municipal Act*,
a municipality may submit to the vote of the electors a question
with respect to nuclear disarmament.

Question re
nuclear
disarmament
authorized
R.S.O. 1980,
c. 302

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

Commence-
ment

3. The short title of this Act is the *Nuclear Disarmament*
Referendum Act, 1982.

Short title

An Act to authorize Municipalities to
obtain the Opinions of Electors with
respect to Nuclear Disarmament

1st Reading

June 3rd, 1982

2nd Reading

3rd Reading

MR. EPP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to acquire the Assets of Inco Limited

MR. MARTEL

EXPLANATORY NOTE

The purpose of the Bill is to vest the title and control of the assets situate in Ontario of Inco Limited in a Crown corporation, The Ontario Nickel Corporation. If compensation cannot be agreed upon, provision is made for arbitration. The objects of The Ontario Nickel Corporation include the task of operating and maintaining the assets of Inco Limited so as to provide employment and other economic benefits to the Province of Ontario.

BILL 134

1982

An Act to acquire the Assets of Inco Limited

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, "Corporation" means The Ontario Nickel Corporation. Interpretation

2.—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of "The Ontario Nickel Corporation". The Ontario Nickel Corporation established

(2) There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council. Board of Directors

(3) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board. Chairman

(4) The Corporation shall have a seal which shall be adopted by resolution or by-law. Seal

3.—(1) The affairs of the Corporation are under the management and control of the Board of Directors. Management

(2) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman. Chairman to preside

(3) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board. Quorum

(4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By laws

Powers
of
Board
R.S.O. 1980,
c. 95

4. The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act* and section 23 of that Act, except clauses (1) (m), (p), (q), (r), (s), (t), (u) and (v), but otherwise the *Corporations Act* does not apply to the Corporation.

Objects

5. The objects of the Corporation are to,

- (a) take possession of the property, both real and personal, and the works and undertakings of Inco Limited and its subsidiaries situated in the Province of Ontario; and
- (b) create, develop and increase income, employment, and other economic benefits to the Province by operating and maintaining, or by encouraging and assisting in the establishment, expansion and continued operation and maintenance of the property, works and undertakings acquired and possessed under this Act,

Head office

6. The head office of the Corporation shall be in The Regional Municipality of Sudbury.

Assets of
Inco vest
in the
Corporation

7. All assets, including all real and personal property, works and undertakings, of Inco Limited and its subsidiaries situated in Ontario are hereby vested in The Ontario Nickel Corporation and the Corporation is hereby entitled to the possession, management and control of the said assets.

Notice of
arbitration

8.—(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Land Compensation Board, as constituted under the *Expropriations Act*, stating that it requires that the compensation payable be determined by arbitration.

R.S.O. 1980,
c. 148

Idem

(2) The notice of arbitration referred to in subsection (1) shall be deemed to be a notice under clause 26 (b) of the *Expropriations Act* and, upon service of the notice, the practice and procedure under the *Expropriations Act* shall apply to the arbitration under this Act.

Application of
R.S.O. 1980,
c. 148

9.—(1) Sections 29, 30, 32, 33, 35 and 36 of the *Expropriations Act* apply to the taking of the assets referred to in section 7 in the same manner as if they were land.

(2) Compensation for the assets referred to in section 7 ^{Idem} is to be determined in accordance with sections 13, 14, 16, 17, subsection 19 (2) and section 20 of the *Expropriations Act* in ^{R.S.O. 1980,} the same manner as if they were land. _{c. 148}

(3) For the purposes of an arbitration under this Act, ^{Interpre-} a reference to "expropriating authority" and to "statutory _{tation} authority" in the *Expropriations Act* is a reference to the Corporation.

10. The compensation payable as a result of this Act ^{Compensation} stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets.

11. The *Bulk Sales Act* does not apply to the transfer of ^{R.S.O. 1980,} assets provided for in this Act. _{c. 52}
does not apply

12. The Corporation shall, after the close of each fiscal ^{Annual} year, deliver to the Minister of Natural Resources an annual _{report} report upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

13. This Act comes into force on the day it receives Royal ^{Commence-} Assent. _{ment}

14. The short title of this Act is the *Inco Limited Acquisition* ^{Short title} *Act, 1982.*





**An Act to acquire the
Assets of Inco Limited**

1st Reading

June 3rd, 1982

2nd Reading

3rd Reading

MR. MARTEL

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Unified Family Court Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

SECTION 1 The provision amended adopts the Schedule setting out the matters in the jurisdiction of the Court. In 1978 general jurisdiction in actions for alimony was deleted because the action was abolished. The amendment recognizes that all the entries in the Schedule are statutory.

SECTION 2 The provision repealed reads as follows:

(2) *Subsection (1) is repealed on a day to be named by proclamation of the Lieutenant Governor.*

Subsection (1) referred to confirms the Court's jurisdiction to rehear applications even though the order was made by the county or Supreme Court before the establishment of the Unified Family Court. The repeal was provided for on the assumption that these cases would phase out by the passage of time. It now appears that there will likely always be some application for subsection 6 (1).

SECTION 3 Subsection 1 The amendment makes the provision of the *Judicature Act* that provides for post-judgment interest applicable to orders of the Court.

Subsection 2 The new subsection gives Unified Family Court garnishments the same status as provincial courts (family division) garnishments have under the *Family Law Reform Act*.

SECTION 4 The amendment provides for jurisdiction of the Court in respect of custody matters under the *Children's Law Reform Act* to be exercised where the child resides in the judicial district.

SECTION 5 The provision amended provides power to punish for contempt of orders of the Unified Family Court. The words added ensure that the provision includes orders of a court in Hamilton-Wentworth issued before the Unified Family Court was created.

SECTION 7 The Act was first enacted as a trial project and its repeal after three years was provided for. This time has been periodically extended. The amendment removes the provision for automatic repeal.

An Act to amend the Unified Family Court Act

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

1. Subsection 3 (3) of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by inserting after "thereof" in the second line "under the statutory provisions". s. 3 (3),
amended
2. Subsection 6 (2) of the said Act is repealed. s. 6 (2),
repealed
- 3.—(1) Subsection 8 (2) of the said Act is amended by inserting after "36" in the first line "37" s. 8 (2),
amended
 - (2) Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,
amended
 - (3) Section 145 of the *Small Claims Courts Act* and subsection 4 (3) of the *Creditors' Relief Act* apply to a garnishment issued by the Court. Application of
R.S.O. 1980,
c. 476, s. 145
and
R.S.O. 1980,
c. 103
- 4.—(1) Subsection 9 (1) of the said Act is amended by inserting at the commencement thereof "Subject to subsection (1a)". s. 9 (1),
amended
 - (2) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,
amended
 - (1a) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in the judicial district may be commenced in the Court. Application
under
Part III,
R.S.O. 1980,
c. 68
5. Subsection 12 (1) of the said Act is amended by inserting after "orders" in the third line "or to an order of the Supreme Court or the County Court of the Judicial District of Hamilton-Wentworth made before the 1st day of July, 1977 in a matter that is in the jurisdiction of the Court" s. 12 (1),
amended
6. Section 24 of the said Act is repealed. s. 24,
repealed

- Commencement **7.**—(1) This Act, except section 4, comes into force on the day it receives Royal Assent.
- Idem (2) Section 4 comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **8.** The short title of this Act is the *Unified Family Court Amendment Act, 1982*.







An Act to amend the
Unified Family Court Act

1st Reading

June 3rd, 1982

2nd Reading

3rd Reading

THE HON. R. McMEIKEN
Attorney General

(Government Bill)

BILL 135

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Unified Family Court Act

THE HON. R. MCMURTRY
Attorney General



An Act to amend the Unified Family Court Act

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

1. Subsection 3 (3) of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by inserting after "thereof" in the second line "under the statutory provisions". s. 3 (3),
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2. Subsection 6 (2) of the said Act is repealed. s. 6 (2),
repealed
- 3.—(1) Subsection 8 (2) of the said Act is amended by inserting after "36" in the first line "37". s. 8 (2),
amended
 - (2) Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,
amended
 - (3) Section 145 of the *Small Claims Courts Act* and subsection 4 (3) of the *Creditors' Relief Act* apply to a garnishment issued by the Court. Application of
R.S.O. 1980,
c. 476, s. 145
and
R.S.O. 1980,
c. 103
- 4.—(1) Subsection 9 (1) of the said Act is amended by inserting at the commencement thereof "Subject to subsection (1a)". s. 9 (1),
amended
 - (2) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,
amended
 - (1a) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in the judicial district may be commenced in the Court. Application
under
Part III,
R.S.O. 1980,
c. 68
5. Subsection 12 (1) of the said Act is amended by inserting after "orders" in the third line "or to an order of the Supreme Court or the County Court of the Judicial District of Hamilton-Wentworth made before the 1st day of July, 1977 in a matter that is in the jurisdiction of the Court". s. 12 (1),
amended
6. Section 24 of the said Act is repealed. s. 24,
repealed

Commence-
ment

7.—(1) This Act, except section 4, comes into force on the day it receives Royal Assent.

Idem

(2) Section 4 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is the *Unified Family Court Amendment Act, 1982*.







An Act to amend the
Unified Family Court Act

1st Reading

June 3rd, 1982

2nd Reading

June 11th, 1982

3rd Reading

June 25th, 1982

THE HON. R. MCURTREY
Attorney General

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Workmen's Compensation Act

MR. LAUGHREN

EXPLANATORY NOTE

The Bill replaces references to "workmen" in the *Workmen's Compensation Act* (renamed the *Workers' Compensation Act*) with references to "workers".

An Act to amend the Workmen's Compensation Act

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

1. The title to the *Workmen's Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: Title, re-enacted

WORKERS' COMPENSATION ACT

2. Where in any general or special Act or in any regulation reference is made to, Amendments to references

- (a) the *Workmen's Compensation Act*;
- (b) the Workmen's Compensation Board; or
- (c) The Workmen's Compensation Board Superannuation Fund,

the reference shall be deemed to be made to,

- (d) the *Workers' Compensation Act*;
- (e) the Workers' Compensation Board; or
- (f) The Workers' Compensation Board Superannuation Fund,

as the case may be.

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is the *Workmen's Compensation Amendment Act, 1982*. Short title

An Act to amend the
Workmen's Compensation Act

1st Reading

June 4th, 1982

2nd Reading

3rd Reading

MR. LAUGHREN

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to regulate the Granting of Degrees

THE HON. B. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

EXPLANATORY NOTE

The Bill provides for the regulation of degree granting institutions from other jurisdictions that wish to operate in Ontario. It also requires that future Ontario universities and degree granting institutions only be incorporated by a special Act of the Assembly and controls the use of the word "university" or any derivation or abbreviation thereof.

BILL 137

1982

An Act to regulate the Granting of Degrees

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 Colleges and Universities;
- (b) "person" includes an association of persons, a partnership or a corporation;
- (c) "regulations" means the regulations made under this Act.

2. No person shall directly or indirectly,

Authority
to grant
degrees,
etc.

- (a) grant degrees;
- (b) provide a program of post-secondary study leading to a degree to be conferred by a person in or outside Ontario;
- (c) advertise a program of post-secondary study offered in Ontario leading to a degree to be conferred by a person in or outside Ontario; or
- (d) sell, offer for sale, or provide by agreement for a fee, reward or other remuneration, a diploma, certificate, document or other material that is, or indicates or implies the granting or conferring of, a degree,

unless the person,

- (e) is by a special Act of the Assembly granted the authority to grant degrees;
- (f) on the day this Act comes into force, is a person who has by a special Act of the Assembly been granted the

authority to grant degrees or whose authority to grant degrees has by a special Act of the Assembly been confirmed;

- (g) is a degree-granting institution established in Canada and listed in the Schedule; or
- (h) is a degree-granting institution established outside Canada and has the written consent of the Minister.

Authority
to establish
a university
etc.

3. No person shall directly or indirectly,

- (a) operate or maintain a university;
- (b) use or be known by a name of a university or any derivation or abbreviation thereof;
- (c) hold himself out to be a university;
- (d) make use of, in any advertising relating to an educational institution in Ontario, the word university or any derivation or abbreviation thereof,

unless the person,

- (e) is by a special Act of the Assembly incorporated as a university;
- (f) on the day this Act comes into force, is a person who has by a special Act of the Assembly been incorporated as a university or has by a special Act of the Assembly been confirmed as a university;
- (g) is a university established in Canada and listed in the Schedule; or
- (h) is a university established outside Canada and has the written consent of the Minister.

Authority
to amend
Schedule

4. The Lieutenant Governor in Council may, by order, amend the Schedule by adding thereto a degree-granting institution established in Canada or university established in Canada.

Consent
of
Minister

5.—(1) The Minister may give a written consent to,

- (a) a degree-granting institution established outside Canada to enable it to do any one or more of the things mentioned in clauses 2 (a) to (d); or

- (b) a university established outside Canada to enable it to do any one or more of the things mentioned in clauses 3 (a) to (d).

(2) The Minister may attach such terms and conditions to a consent given under subsection (1) as the Minister considers proper to give effect to the intent of this Act. Terms and conditions of consent

6.—(1) Where the Minister has reasonable and probable grounds to believe that a person has contravened any of the provisions of this Act or the regulations, an inspector designated by the Minister in writing may at any reasonable time enter upon the business premises of such person, to make an inspection for the purpose of determining whether or not the person is in contravention of this Act or the regulations. Inspection

(2) Upon an inspection under subsection (1), the inspector, Powers on inspection

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person 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 in which case the inspector shall make a copy with dispatch and return the material promptly thereafter to the person being inspected,

and no person shall obstruct the inspector in his inspection, withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(3) A copy made as provided in subsection (2) 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. Admissibility of copies

7.—(1) Every person who, Offence

(a) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations; or

(b) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information or contravention

by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem (2) Where the person convicted of an offence under subsection (1) is a corporation, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Certificate of Minister as evidence

8. A written statement as to,

- (a) the consent or non-consent given to any person by the Minister; or
- (b) any other matter pertaining to such consent or non-consent,

purported to be certified by the Minister, is, without proof of the office or signature of the Minister, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

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

- (a) governing applications for consent to engage or perform any act referred to in section 2 or 3;
- (b) providing for the expiration and renewal of consents;
- (c) prescribing information that must be contained in an application or form and requiring any such information to be verified by affidavit;
- (d) prescribing the terms and conditions upon which a consent of the Minister may be granted under this Act;
- (e) exempting any person or class of persons from any requirement of this Act or the regulations;
- (f) prescribing forms and providing for their use.

Adoption by reference

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any publication and may require compliance with any standards, requirements or procedures prescribed in a publication that is so adopted.

Commencement

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

11. The short title of this Act is the *Degree Granting Act*, Short title 1982.

SCHEDULE

Acadia University

The University of Alberta

Athabasca University

Atlantic Institute of Education

Atlantic School of Theology

Bishop's University

Brandon University

Briarcrest Bible Institute (Saskatchewan)

The University of British Columbia

The University of Calgary

Seminary of Christ the King

Concordia University

Dalhousie University

The King's College (Edmonton, Alberta)

University of King's College (Halifax, N.S.)

Université Laval

The University of Lethbridge

The University of Manitoba

McGill University

Memorial University of Newfoundland

Université de Moncton

Université de Montréal

Mount Allison University

Mount Saint Vincent University

University of New Brunswick

Nova Scotia College of Art and Design

Nova Scotia Technical College

Open Learning Institute (British Columbia)

University of Prince Edward Island

Université du Québec

Regent College (British Columbia)

The University of Regina

Université Sainte-Anne

St. Francis Xavier University

Saint Mary's University

St. Thomas University

University of Saskatchewan

Université de Sherbrooke

Simon Fraser University

Trinity Western College

University of Victoria (Victoria, B.C.)

The University of Winnipeg

Winnipeg Bible College and Theological Seminary







An Act to regulate
the Granting of Degrees

1st Reading

June 4th, 1982

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Protection of the Health of the Public

THE HON. L. GROSSMAN
Minister of Health

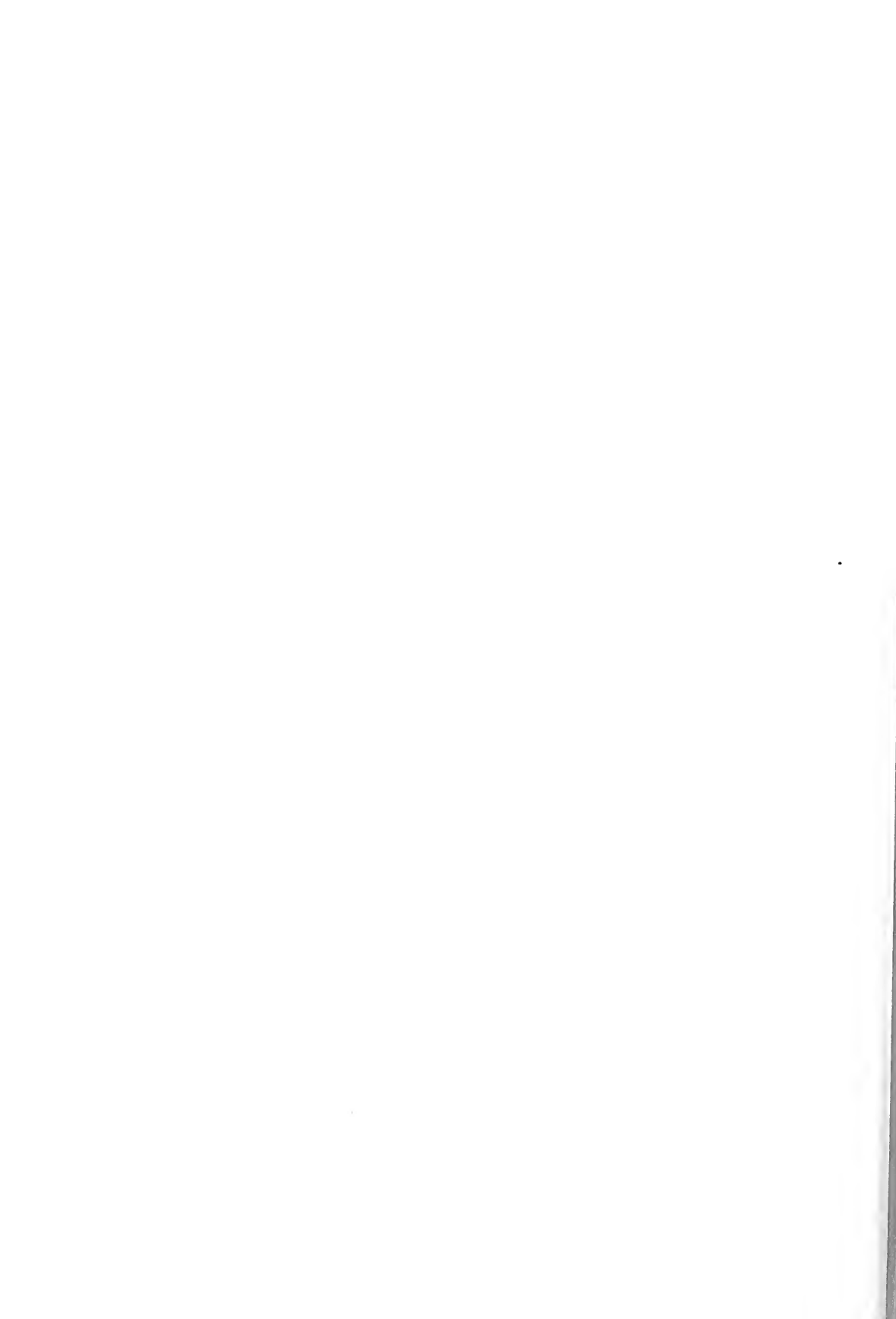


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EXPLANATORY NOTES

The Bill revises the *Public Health Act*, except sections 3 to 5 (inspectors), sections 59 to 75 (medical laboratories and specimen collection centres) and subsections 150 (2), (3) and (4) (penalties).

The Bill is divided into the following parts:

- Part I — Interpretation
- Part II — Health Programs and Services
- Part III — Community Health Protection
- Part IV — Communicable Diseases
- Part V — Rights of Entry and Appeals from Orders
- Part VI — Health Units and Boards of Health
- Part VII — Administration
- Part VIII — Regulations
- Part IX — Enforcement
- Part X — Transition and Repeals

Part I contains section 1, the interpretation section, and section 2, which states that the purpose of the Act is to provide for the organization and delivery of health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Part II relates to the provision of mandatory and optional health programs and services by boards of health.

Part III, Community Health Protection, requires medical officers of health to provide for inspections in health units. Medical officers of health and public health inspectors are authorized to make orders to decrease the effect of or to eliminate health hazards. The term "health hazard" is defined in the Bill.

The Part also authorizes medical officers of health to direct the staff and agents of boards of health to do work in a health unit where a health hazard is apparent and an order may not be an effective way of dealing with it. The expenses incurred by a board of health in respect of a health hazard may be recovered by court action.

The regulation of food premises and the sale of milk are also dealt with in the Part.

The Part also authorizes the seizure and examination of anything that may be a health hazard.

The sale of unfit food is prohibited and potable water and toilets must be provided in residential buildings.

Part IV, Communicable Diseases, authorizes a medical officer of health to make orders to decrease or eliminate the risk to health presented by a communicable disease.

The Part requires hospital administrators and other health professionals to report the existence of prescribed diseases to the medical officer of health (M.O.H.) and requires the M.O.H. to report to the Ministry.

Medical officers of health are authorized to provide medical and public health nursing attendance and necessities to persons in need of assistance who appear not competent to care for themselves.

The Part also provides that where a person fails to comply with an order by a medical officer of health related to examination and treatment in respect of a

virulent disease, a provincial offences court may order the detention, examination and treatment of the person.

The Part also requires a physician to report to the medical officer of health the name and address of any patient who refuses or neglects treatment for a communicable disease (section 33).

The Part also deals with the control of communicable diseases in correctional institutions, training schools, lock-ups and observation and detention homes (section 36).

Confidentiality of information in respect of diseases is provided for in section 37.

Section 38, which prohibits unqualified persons from supplying drugs or providing treatment for the purpose of alleviating or curing a sexually transmitted disease is brought forward from section 11 of the *Venerual Diseases Prevention Act*.

Part V deals with rights of entry and appeals from orders made under the Act.

The Part also establishes the Health Protection Appeal Board.

Part VI deals with boards of health (located mainly in sections 17 to 48 of the *Public Health Act*) and medical officers of health.

The Part deals with the composition of boards of health, their legal status, names, meetings and records.

The Part also deals with the appointment of medical officers of health, their retirement, dismissal and status. Provision is also made for associate and acting medical officers of health and other staff, including public health nurses.

The duty of the municipalities in a health unit in relation to the expenses of the board of health of the health unit is dealt with in section 69.

Boards of health are required to provide reports to the Minister and the councils of municipalities in the health units served by the boards of health (section 70).

Section 71 authorizes inspection of the accounts of boards of health by financial inspectors appointed by the Minister.

Section 72 authorizes the Minister to direct the Chief Medical Officer of Health to provide advice and guidance to a board of health, the medical officer of health and the administrative and professional staffs of the board of health and to act in their place if they do not accede to his requests. The authority of this section may be employed if the Minister is of the opinion that the quality of the management and administration of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

The payment of grants to boards of health and to persons or organizations is authorized (section 73).

The merger of health units and the alteration of the boundaries of health units are dealt with in section 74.

Part VII, Administration, authorizes the Minister to investigate causes of disease and provides for the appointment of a Chief Medical Officer of Health and states his authority to act.

The Chief Medical Officer of Health has authority to examine the records of a board of health (section 79).

Under section 80, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of any mandatory health program or service that a board of health is required to provide but is not providing.

Under section 81, the Minister may direct the Chief Medical Officer of Health to take appropriate action in a situation that constitutes or may constitute a risk to health.

The powers that may be exercised by the Chief Medical Officer of Health for the purposes of sections 80 and 81 are set out in section 82. The expenses of carrying out a direction by the Chief Medical Officer of Health or a medical officer of health are provided for in section 83.

The Part provides for the taking of premises for use as a temporary isolation facility.

The Part also provides for the appointment of provincial analysts.

The Part also provides for public health services in areas not within health units.

Part VIII provides for regulations and Part IX contains enforcement provisions.

Part X contains transition and repeal provisions including the repeal of:

1. The *Sanatoria for Consumptives Act*.
2. The *Venereal Diseases Prevention Act*.

(The subject-matter of these Acts is now dealt with in Part IV, Communicable Diseases.)

3. Section 2 of *The Borough of North York Act, 1977*.
4. *The Borough of Etobicoke Act, 1980*.

(The subject-matter of these is dealt with in Part VI, Health Units and Boards of Health.)

BILL 138

1982

An Act respecting the Protection of the Health of the Public

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

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. “Board” means the Health Protection Appeal Board under this Act;
2. “board of health” means a board of health established or continued under this Act and includes,
 - i. the board of health under the *County of Oxford Act*, R.S.O. 1980, c. 365
 - ii. a board of health under an Act establishing or continuing a regional municipality, and
 - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. “Chief Medical Officer of Health” means the Chief Medical Officer of Health under this Act;
4. “communicable disease” means a disease specified as a communicable disease by regulation made by the Minister;
5. “dwelling unit” means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
 - i. a condition of a premises,
 - ii. a substance, thing, plant or animal other than man, or
 - iii. a solid, liquid, gas or combination of any of them,that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes,

including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,

- i. a person who is in physical possession of premises, or
- ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;

20. "physician" means a legally qualified medical practitioner;

21. "premises" means lands and structures, or either of them, and includes,

- i. water,
- ii. ships and vessels,
- iii. trailers and portable structures designed or used for residence, business or shelter,
- iv. trains, railway cars, vehicles and aircraft;

22. "public health inspector" means a public health inspector of a board of health;

23. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,

- i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or

- ii. one that is used solely for commercial display and demonstration purposes;
- 24. "regulations" means regulations made under this Act;
- 25. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
- 26. "residential building" means a structure that contains one or more dwelling units;
- 27. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
- 28. "school" means a "private school" and a "school" as defined in the *Education Act*;
- 29. "school board" means a board as defined in the *Education Act*;
- 30. "sexually transmitted disease" means a disease caused by an infectious agent transmitted during sexual contact;
- 31. "virulent disease" means,
 - i. Diphtheria,
 - ii. Ebola virus disease,
 - iii. Gonorrhoea,
 - iv. Hemorrhagic fever,
 - v. Lassa fever,
 - vi. Marburg virus disease,
 - vii. Plague,
 - viii. Syphilis,
 - ix. Smallpox,
 - x. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

R.S.O. 1980,
c. 129

Closing of
premises

(2) An order under this Act that requires the closing of premises is an order,

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

2. The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario. Purpose

3. This Act binds the Crown. Act binds Crown

PART II

HEALTH PROGRAMS AND SERVICES

4. Every board of health, Duty of board of health
- (a) shall provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
 - (b) shall perform such other functions as are required by or under this or any other Act.

5. Every board of health shall provide or ensure the provision of health programs and services in the following areas: Mandatory health programs and services

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
 - i. provision of counselling services,
 - ii. establishment of family planning services,

- iii. programs to identify pregnant women who are in high-risk health categories,
- iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
- v. provision of preschool and school health services,
- vi. collection and analysis of epidemiological data.

R.S.O. 1980,
c. 197

- 5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
- 6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
- 7. Public health education, including education in the prevention and control of life-style diseases.
- 8. Such additional health programs and services as are prescribed by the regulations.

School
pupils

6.—(1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

Consent
of school

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school.

Application
of subs. (1)

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Prohibition

(4) Where a board of health is required by this Act or the regulations to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit.

Guidelines

7.—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines.

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry. Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*. Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails. Conflict

8. A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines. Extent of programs and services

9. A board of health may provide any other health program or service in any area in the health unit served by the board of health if, Optional health programs and services

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service.

PART III

COMMUNITY HEALTH PROTECTION

10.—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit. Duty to inspect

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following: Idem

1. Food premises and any food and equipment thereon or therein.
2. Premises used or intended for use as a boarding house or lodging house.

11.—(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard. Order by M.O.H. or public health inspector re health hazard

Condition
precedent
to order

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

Time

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Idem

(4) An order under this section may include, but is not limited to,

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;
- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person
directed

(5) An order under this section may be directed to a person,

- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
- (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
- (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

(6) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

12.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. Directions by M.O.H.

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a health hazard exists in the health unit and the person to whom an order is or would be directed under section 11, When M.O.H. may give directions

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. Contents of directions

(4) Directions under this section may include, but are not limited to, Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence

of a health hazard or of an order made under this Act or both;

- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

Recovery
of expenses

13. The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction.

Food
premises

14.—(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of
intention
to commence
operation

(2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons
employed
on or in
food premises

(3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information

(4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

Records

(5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of

food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

15. No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause. Sale of diseased food

16.—(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Unpasteurized or unsterilized milk
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*. Exception

(4) In subsection (2), “milk product” means a product processed or derived in whole or mainly from milk. Interpretation

17.—(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal. Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard. Examination

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized. Return

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard. Destruction

Food (5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities required in residential buildings

18. Every person who owns a residential building shall provide in the residential building,

(a) potable water; and

(b) sanitary facilities,

for the occupants of the residential building.

PART IV

COMMUNICABLE DISEASES

Interpretation **19.—**(1) In this Part,

(a) “institution” means,

- (i) “charitable institution” within the meaning of the *Charitable Institutions Act*,
 - (ii) “facility” and “institution” within the meaning of the *Child Welfare Act*,
 - (iii) “children’s institution” within the meaning of the *Children’s Institutions Act*,
 - (iv) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,
 - (v) “children’s residence” within the meaning of the *Children’s Residential Services Act*,
 - (vi) “day nursery” within the meaning of the *Day Nurseries Act*,
 - (vii) “facility” within the meaning of the *Developmental Services Act*,
 - (viii) “approved home” and “home for retarded persons” within the meaning of the *Homes for Retarded Persons Act*,
- R.S.O. 1980, c. 64
- R.S.O. 1980, c. 66
- R.S.O. 1980, c. 67
- R.S.O. 1980, c. 69
- R.S.O. 1980, c. 71
- R.S.O. 1980, c. 111
- R.S.O. 1980, c. 118
- R.S.O. 1980, c. 201

- (ix) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (x) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (xi) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980, 262
- (xii) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xiii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiv) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xvi) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvii) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xviii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. Idem R.S.O. 1980, c. 410

20.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease. Order by M.O.H. re communicable disease

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds, Condition precedent to order

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a com-

communicable disease in the health unit served by the medical officer of health;

- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may
be included
in order

(4) An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;
- (g) requiring the person to whom the order is directed to place himself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

21. Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

22.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. Directions by M.O.H.

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20, When M.O.H. may give directions

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Duty to report disease
R.S.O. 1980,
cc. 196, 127

23. A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of disease

24. A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty of hospital administrator to report re disease

25.—(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

26. The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

27.—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Contents and time of report

(3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Interpretation R.S.O. 1980, c. 409

28. A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Duty to report death R.S.O. 1980, c. 524

29. Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Reports by M.O.H. re diseases

30.—(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Communication between medical officers of health

Transmittal
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communicable
diseases of
the eyes

31. Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Person in
need of
assistance

32. Where a medical officer of health is of the opinion, upon reasonable and probable grounds, that a person residing in the health unit served by the medical officer of health shows a lack of competence to care for himself and that serious physical impairment of the person is imminent, the medical officer of health may provide or arrange for the attendance of physicians and public health nurses, medicine and other assistance and necessaries for the person.

Physician
to report
refusal or
neglect of
treatment

33.—(1) Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to
be made
to M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

Transmittal
to M.O.H.
where
person
resides

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Additional
information

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Order by
provincial
offences
court

34.—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

When court
may make
order

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health, Contents of order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to provide detention, care and treatment for the person who is the subject of the order. Capability of hospital

(5) An order under this section is authority for any person, Delivery to hospital

- (a) to locate and apprehend the person who is the subject of the order; and
- (b) to deliver the person who is the subject of the order to the hospital named in the order.

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order. Police assistance

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued. Care and treatment

- Physician responsible (8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.
- Reports (9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.
- Idem (10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.
- Order to continue detention and treatment (11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,
- (a) that the person continues to be infected with an agent of a virulent disease; and
 - (b) that the discharge of the person from the hospital would present a significant risk to the health of the public,
- by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.
- Release and discharge from hospital (12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.
- Certificate of M.O.H. (13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.
- Hearing of application (14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on proceeding before Board

35.—(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 34 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.

Where person withdraws from care and treatment

(2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 34 applies with necessary modifications.

Failure to comply with isolation order

36.—(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.

Examination of person under detention

(2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

Order by M.O.H. re person under detention

(3) In this section,

Interpretation

- (a) "correctional institution" has the same meaning as in the *Ministry of Correctional Services Act*;

R.S.O. 1980, c. 275

- R.S.O. 1980,
c. 302
- (b) "lock-up" has the same meaning as in section 206 of the *Municipal Act*;
- R.S.O. 1980,
c. 398
- (c) "observation and detention home" has the same meaning as in the *Provincial Courts Act*;
- R.S.O. 1980,
c. 508
- (d) "training school" has the same meaning as in the *Training Schools Act*.

Confidentiality **37.**—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

- Exceptions (2) Subsection (1) does not apply,
- (a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;
- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- R.S.O. 1980,
cc. 196, 410,
197
R.S.C. 1970,
cc. M-8, C-34
- (d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or
- R.S.O. 1980,
c. 66
- (e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child.

Supply of drugs, etc., by unqualified person prohibited **38.**—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease.

Exception re pharmacist
R.S.O. 1980,
c. 196

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

PART V

RIGHTS OF ENTRY
AND
APPEALS FROM ORDERS

39.—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following: ^{Interpretation, persons}

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following: ^{Interpretation, purposes}

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2). ^{Entry}

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2). ^{Examinations}

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2). ^{Samples or extracts}

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. ^{Reasonable times}

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. ^{Private residence}

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dis- ^{Food premise}

mantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry.

Compliance
with
requirement

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8).

Copies

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

Application
for warrant

(11) If an occupier of premises,

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 41.

Obstruction

40. No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a medical officer of health lawfully carrying out a power, duty or direction under this Act.

Warrant by
justice of
the peace

41.—(1) Where a justice of the peace is satisfied on evidence upon oath,

- (a) that there is reasonable and probable ground for believing that it is necessary,
 - (i) to enter and have access to, through and over any premises,
 - (ii) to make examinations, investigations, tests and inquiries, and

(iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

(b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. Expiry of warrant

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. Ex parte application

42.—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within Notice of right to hearing

fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Effect of
order

(2) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect when it is served on the person to whom it is directed, but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of.

Powers of
Board

(3) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order.

Time for
hearing

(4) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just.

Extension
of time for
hearing

(5) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Parties

43.—(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board.

Examination of
documentary
evidence

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members
holding
hearing not to
have taken
part in
investi-
gation, etc.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative

except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

44.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court. Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of. Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

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

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. Powers of court on appeal

45.—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council. Health Protection Appeal Board

- Chairman and vice-chairmen (2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.
- Vacancy (3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.
- Terms (4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
- Remuneration (5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Quorum (6) Three members of the Board constitute a quorum.
- Sittings (7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
- Practice and procedure (8) The Board may determine its own practice and procedure in relation to a hearing.
- Decision (9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
- Hearings to be public, exceptions (10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

PART VI

HEALTH UNITS AND BOARDS OF HEALTH

- Boards of health **46.** There shall be a board of health for each health unit.
- Composition of board of health **47.**—(1) A board of health is composed of the members appointed to the board under this Act and the regulations.

- (2) There shall be not fewer than three and not more than thirteen municipal members of each board of health. Municipal members.
- (3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health. Appointments by Lieutenant Governor in Council
- (4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate. Remuneration
- (5) A board of health shall pay the reasonable and actual expenses of each member of the board of health. Expenses
- (6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate. Rate of remuneration
- (7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council. Term of office
- (8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*. Disqualification
R.S.O. 1980,
c. 302
- (9) Subsections (1) to (8) do not apply to, Application of
subss. (1-8)
- (a) the board of health under the *County of Oxford Act*; R.S.O. 1980,
c. 365
- (b) a board of health under an Act establishing or continuing a regional municipality; or
- (c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.
- 48.—**(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which, Agreement with council of band
- (a) the board agrees to provide health programs and services to the members of the band; and

(b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

Appointment
of member
by council
of band

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit.

Joint
appointment

(3) The council of the band of each of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2).

Term

(4) An appointment under this section may be for one, two or three years.

Interpretation
R.S.C. 1970,
c. I-6

(5) In this section, "band", "council of the band" and "reserve" have the same meanings as in the *Indian Act* (Canada).

Term of
office

49.—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years.

Vacancy

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member.

Disquali-
fication

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be
corporation

50.—(1) Every board of health is a corporation without share capital.

Application of
R.S.O. 1980,
cc. 95, 96

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

Real
property

(3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents
required

(4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

51. The name of each board of health shall be the "Board of Health for the
(inserting the name of the health unit)
Health Unit".

Name of board

52. A majority of the members of a board of health constitutes a quorum of the board.

Quorum

53. Sections 50 to 52 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

Application of ss. 50-52

54. A board of health shall pass by-laws respecting,

By-laws

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor.

55.—(1) A board of health shall hold its first meeting of each year not later than the 1st day of February.

First meeting

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

Chairman

56. A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it.

Minutes

57.—(1) A board of health shall keep or cause to be kept,

Financial records

- (a) books, records and accounts of its financial affairs;
- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to,

Annual financial statements

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.

- Retention of records (3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations.
- Duty of board of health **58.** Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.
- Medical officer of health **59.** Every board of health,
 (a) shall appoint a full-time medical officer of health; and
 (b) may appoint one or more associate medical officers of health,
 of the board of health.
- Use of title **60.** A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.
- Eligibility for appointment **61.** No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,
 (a) he is a physician;
 (b) he possesses the qualifications and requirements prescribed by the regulations for the position; and
 (c) the Minister approves the proposed appointment.
- Retirement **62.—**(1) Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.
- Extension (2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.
- Dismissal **63.—**(1) A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,
 (a) the decision is carried by the vote of two-thirds of the members of the board; and

(b) the Minister consents in writing to the dismissal.

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health, Notice and attendance

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting.

64.—(1) The medical officer of health of a board of health is the executive officer of the board. Executive officer

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board. Direction of staff

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board. Management and administration

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health. Area of authority

65.—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health. Duties of associate M.O.H.

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health. Where M.O.H. absent or unable to act

66.—(1) Where, Acting M.O.H.

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

- Powers and duties** (2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.
- Attendance at meetings of boards** **67.** The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.
- Staff** **68.—**(1) Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.
- Qualifications** (2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.
- Expenses** **69.—**(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.
- Municipal authority** (2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.
- Reports** **70.** Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.
- Financial inspectors** **71.—**(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.
- Obstruction** (2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires. Information

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector. Access to records

72.—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health. Where Minister is of opinion that management or administration of affairs of board of health are inadequate

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health. Directions by Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health. Duty of board of health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be. Action on behalf of board of health, etc.

- Action by board of health (5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative or professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.
- Right of access (6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.
- Duration of directions (7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.
- Grants **73.** The Minister may pay grants,
 (a) to boards of health;
 (b) to persons or organizations prescribed by the regulations,
 for the purpose of this Act or for such purpose as is prescribed by the regulations.
- Merger of health units **74.**—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.
- Assets and liabilities (2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.
- Alteration of boundaries of health units (3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.
- Order by Minister (4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

PART VII

ADMINISTRATION

75.—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario. Investigation re disease and mortality

(2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario. Direction to investigate

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. Powers of investigator
R.S.O. 1980,
c. 411

76.—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper. Public health laboratory centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction. Direction by Minister

77.—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors. Appointment of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act. Duty

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable. Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry. Directions and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request. Certificate of appointment

Chief Medical Officer of Health **78.**—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Qualifications (2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.

Examinations of records by Chief Medical Officer of Health **79.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.

Copies (2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.

Delegation (3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.

Where board of health not providing health program or service **80.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.

Expenses (2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

Where situation of risk to health **81.** Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Powers of Chief Medical Officer of Health **82.**—(1) For the purposes of sections 80 and 81, the Chief Medical Officer of Health,

(a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and

(b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,

(i) that the person has power to do under this Act, or

- (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority and duty of person directed to act

(a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and

(b) the person shall carry out the direction as soon as practicable.

83.—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

84.—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Possession of premises for temporary isolation facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
 - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
 - (ii) is not likely to comply with the Minister's order under subsection (1), or
 - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

Execution of warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. Ex parte application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located. Termination of use of premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation. Compensation R.S.O. 1980, c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section. Application of R.S.O. 1980, c. 148

85. The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit, Northern Ontario Public Health Service

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

86.—(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of, Health services in isolated municipalities

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals whose services may be employed by a board of health.

- Idem (2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.
- Repeal of ss. 85, 86 **87.** Sections 85 and 86 are repealed on a day to be named by proclamation of the Lieutenant Governor.
- Agreement with organization **88.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,
- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
 - (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health.
- Hearings **89.** The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.
- Appointment of public health professionals **90.** The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.
- Provincial analysts **91.** The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.
- Protection from personal liability **92.**—(1) No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

PART VIII

REGULATIONS

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

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them. Regulations relating to Part II

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
 - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
 - (ii) requiring the installation and maintenance of safety equipment,
 - (iii) requiring the presence of lifeguards and other staff, and
 - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of persons who are employed on or in food premises and requiring compliance therewith;
- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughterhouses; prescribing and requiring compliance with standards and requirements in respect of the foregoing

and prohibiting the slaughter of animals in any place other than a slaughter-house;

- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

(4) The Lieutenant Governor in Council may make regulations relating to Part IV, Regulations relating to Part IV

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable

disease or who had a communicable disease at the time of death;

- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;
- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

Regulations
relating to
Part VI

(5) The Lieutenant Governor in Council may make regulations relating to Part VI,

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;

- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
 - (i) the number of municipal members of the board,
 - (ii) by whom each of the municipal members of the board shall be appointed,
 - (iii) the area or place that each municipal member of the board is to represent,
 - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980, c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody, keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,
 - (i) the proceedings of boards of health,
 - (ii) the text of by-laws and resolutions of boards of health,
 - (iii) the financial and administrative affairs of boards of health,
 - (iv) mandatory health programs and services,
 - (v) other health programs and services,

(vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;

(g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;

(h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations
by Minister

94. The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of
regulations

95.—(1) A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption
of codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

Classes

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the same type or with the same attributes, qualities or characteristics.

Form, etc.,
of reports
or notices

96. Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations.

PART IX

ENFORCEMENT

Offence,
orders

97.—(1) Any person who fails to obey an order made under this Act is guilty of an offence.

Offence,
reports

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence.

(3) Any person who contravenes section 14, 15, 16, 18, 37 or 38, subsection 39 (9), section 40, subsection 71 (2) or section 102 is guilty of an offence. Offence, sections of Act

(4) Any person who contravenes a regulation is guilty of an offence. Offence, regulations

98.—(1) Every person who is guilty of an offence under section 97 is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is convicted of an offence under this Act, Directors, officers, employees and agents

(a) each director of the corporation; and

(b) each officer, employee 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 guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

99.—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister. Proceedings to restrain contravention of order

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court. Proceedings to prohibit continuation or repetition of contravention

100.—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer Copy of order as evidence

of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate
as evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of
compliance
with order

101. A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Furnishing
false
information

102. No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Service

103.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his last known address.

When service
deemed made

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

PART X

TRANSITION AND REPEALS

Health
units
R.S.O. 1980,
c. 409

104. Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

105. Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of health continued R.S.O. 1980, c. 409

106. The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office and shall be deemed to be the municipal members of the board referred to in Part VI until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board member continued in office

107. The medical officers of health of boards of health or local boards of health in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical officers of health continued in office

108.—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws continued

(2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Compliance

109.—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 50 (2), (3) and (4), is repealed.

Repeals

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

Idem

LABORATORY AND SPECIMEN COLLECTION
CENTRE LICENSING ACT

(3) The following are repealed:

Idem

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.

4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-
ment

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

Short title

111. The short title of this Act is the *Health Protection Act, 1982*.





An Act respecting the Protection
of the Health of the Public

1st Reading

June 8th, 1982

2nd Reading

3rd Reading

THE HON. I. GROSSMAN
Minister of Health

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Protection of the Health of the Public

THE HON. L. GROSSMAN
Minister of Health

(Reprinted as amended by the Social Development Committee)

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EXPLANATORY NOTES

The Bill revises the *Public Health Act*, except sections 3 to 5 (inspectors), sections 59 to 75 (medical laboratories and specimen collection centres) and subsections 150 (2), (3) and (4) (penalties).

The Bill is divided into the following parts:

- Part I — Interpretation
- Part II — Health Programs and Services
- Part III — Community Health Protection
- Part IV — Communicable Diseases
- Part V — Rights of Entry and Appeals from Orders
- Part VI — Health Units and Boards of Health
- Part VII — Administration
- Part VIII — Regulations
- Part IX — Enforcement
- Part X — Transition and Repeals

Part I contains section 1, the interpretation section, and section 2, which states that the purpose of the Act is to provide for the organization and delivery of health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Part II relates to the provision of mandatory and optional health programs and services by boards of health.

Part III, Community Health Protection, requires medical officers of health to provide for inspections in health units. Medical officers of health and public health inspectors are authorized to make orders to decrease the effect of or to eliminate health hazards. The term "health hazard" is defined in the Bill.

The Part also requires medical officers of health to keep themselves informed in respect of matters related to occupational and environmental health and to respond to complaints about health hazards related to occupational or environmental health. Municipalities and Government ministries are required to provide information related to occupational or environmental health requested by a medical officer of health if the information is available and not restricted by law.

The Part also authorizes medical officers of health to direct the staff and agents of boards of health to do work in a health unit where a health hazard is apparent and an order may not be an effective way of dealing with it. The expenses incurred by a board of health in respect of a health hazard may be recovered by court action or may be added to the collector's roll and collected in the same manner as municipal real property taxes.

The regulation of food premises and the sale of milk are also dealt with in the Part.

The Part also authorizes the seizure and examination of anything that may be a health hazard.

The sale of unfit food is prohibited and potable water and toilets must be provided in residential buildings.

Part IV, Communicable Diseases, authorizes a medical officer of health to make orders to decrease or eliminate the risk to health presented by a communicable disease.

The Part requires hospital administrators and other health professionals to report the existence of prescribed diseases to the medical officer of health (M.O.H.) and requires the M.O.H. to report to the Ministry.

The Part also provides that where a person fails to comply with an order by a medical officer of health related to examination and treatment in respect of a virulent disease, a provincial offences court may order the detention, examination and treatment of the person. An order of a provincial offences court may be appealed to a county or district court and from there, with leave, to the Court of Appeal.

The Part also requires a physician to report to the medical officer of health the name and address of any patient who refuses or neglects treatment for a communicable disease (section 34).

The Part also deals with the control of communicable diseases in correctional institutions, training schools, lock-ups and observation and detention homes (section 37).

Confidentiality of information in respect of diseases is provided for in section 38.

Section 39, which prohibits unqualified persons from supplying drugs or providing treatment for the purpose of alleviating or curing a sexually transmitted disease is brought forward from section 11 of the *Veneral Diseases Prevention Act*.

Part V deals with rights of entry and appeals from orders made under the Act.

The Part also establishes the Health Protection Appeal Board.

Part VI deals with boards of health (located mainly in sections 17 to 48 of the *Public Health Act*) and medical officers of health.

The Part deals with the composition of boards of health, their legal status, names, meetings and records. Section 59 of the Bill relates specifically to the boards of health of the following Metropolitan Toronto municipalities: the Borough of Etobicoke, the City of North York, the Borough of Scarborough and the City of Toronto.

The Part also deals with the appointment of medical officers of health, their retirement, dismissal and status. Provision is also made for associate and acting medical officers of health and other staff, including public health nurses.

The duty of the municipalities in a health unit in relation to the expenses of the board of health of the health unit is dealt with in section 71.

Boards of health are required to provide reports to the Minister and the councils of municipalities in the health units served by the boards of health (section 72).

Section 73 authorizes inspection of the accounts of boards of health by financial inspectors appointed by the Minister.

Section 74 authorizes the Minister to direct the Chief Medical Officer of Health to provide advice and guidance to a board of health, the medical officer of health and the administrative and professional staffs of the board of health and to act in their place if they do not accede to his requests. The authority of this section

may be employed if the Minister is of the opinion that the quality of the management and administration of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

The payment of grants to boards of health and to persons or organizations is authorized (section 75).

The merger of health units and the alteration of the boundaries of health units are dealt with in section 76.

Part VII, Administration, authorizes the Minister to investigate causes of disease and provides for the appointment of a Chief Medical Officer of Health and states his authority to act.

The Chief Medical Officer of Health has authority to examine the records of a board of health (section 81).

Under section 82, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of any mandatory health program or service that a board of health is required to provide but is not providing.

Under section 83, the Minister may direct the Chief Medical Officer of Health to take appropriate action in a situation that constitutes or may constitute a risk to health.

The powers that may be exercised by the Chief Medical Officer of Health for the purposes of sections 82 and 83 are set out in section 84. The expenses of carrying out a direction by the Chief Medical Officer of Health or a medical officer of health are provided for in section 85.

The Part provides for the taking of premises for use as a temporary isolation facility.

The Part also provides for the appointment of provincial analysts.

The Part also provides for public health services in areas not within health units.

Part VIII provides for regulations and Part IX contains enforcement provisions.

Part X contains transition and repeal provisions including the repeal of:

1. *The Sanatoria for Consumptives Act.*
2. *The Venereal Diseases Prevention Act.*

(The subject-matter of these Acts is now dealt with in Part IV, Communicable Diseases.)

3. Section 2 of *The Borough of North York Act, 1977.*
4. *The Borough of Etobicoke Act, 1980.*

(The subject-matter of these is dealt with in Part VI, Health Units and Boards of Health.)



BILL 138

1982

An Act respecting the Protection of the Health of the Public

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

PART I

INTERPRETATION

1.—(1) In this Act,

Inter-
pre-
ta-
tion

1. "Board" means the Health Protection Appeal Board under this Act;
2. "board of health" means a board of health established or continued under this Act and includes,
 - i. the board of health under the *County of Oxford Act*, R.S.O. 1980, c. 365
 - ii. a board of health under an Act establishing or continuing a regional municipality, and
 - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. "Chief Medical Officer of Health" means the Chief Medical Officer of Health under this Act;
4. "communicable disease" means a disease specified as a communicable disease by regulation made by the Minister;
5. "dwelling unit" means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
 - i. a condition of a premises,
 - ii. a substance, thing, plant or animal other than man, or
 - iii. a solid, liquid, gas or combination of any of them,

that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes,

including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,

- i. a person who is in physical possession of premises,
- ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or
- iii. a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;
20. "physician" means a legally qualified medical practitioner;
21. "premises" means lands and structures, or either of them, and includes,
- i. water,
 - ii. ships and vessels,
 - iii. trailers and portable structures designed or used for residence, business or shelter,
 - iv. trains, railway cars, vehicles and aircraft;
22. "public health inspector" means a public health inspector of a board of health;
23. "public health nurse" means a public health nurse of a board of health;

24. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,
- i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or
 - ii. one that is used solely for commercial display and demonstration purposes;
25. "regulations" means regulations made under this Act;
26. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
27. "residential building" means a structure that contains one or more dwelling units;
28. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
29. "school" means a "private school" and a "school" as defined in the *Education Act*;
30. "school board" means a board as defined in the *Education Act*;
31. "sexually transmitted disease" means a disease caused by an infectious agent usually transmitted during sexual contact;
32. "virulent disease" means,
- i. Cholera,
 - ii. Diphtheria,
 - iii. Ebola virus disease,
 - iv. Gonorrhoea,
 - v. Hemorrhagic fever,
 - vi. Lassa fever,
 - vii. Leprosy,

- viii. Marburg virus disease,
- ix. Plague,
- x. Syphilis,
- xi. Smallpox,
- xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of premises is an order, Closing of premises

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

2. The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario. Purpose

3. This Act binds the Crown. Act binds Crown

PART II

HEALTH PROGRAMS AND SERVICES

4. Every board of health, Duty of board of health

- (a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and

(b) shall perform such other functions as are required by or under this or any other Act.

5. Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas: Mandatory health programs and services

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
 - i. provision of counselling services,
 - ii. establishment of family planning services,
 - iii. programs to identify pregnant women who are in high-risk health categories,
 - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
 - v. provision of preschool and school health services,
 - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,
c. 197

School
pupils

6.—(1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

Consent
of school

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the

school has agreed to the provision of the particular health program or service to the pupils attending the school.

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service. Application of subs. (1)

(4) Where a board of health is required by this Act or the regulations to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit. Prohibition

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. Separate school rights preserved 1867, c. 3; R.S.O. 1980, c. 129

7.—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines. Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry. Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*. Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails. Conflict

8. A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines. Extent of programs and services

9. A board of health may provide any other health program or service in any area in the health unit served by the board of health if, Optional health programs and services

(a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and

(b) the councils of the municipalities in the area approve of the provision of the health program or service.

PART III

COMMUNITY HEALTH PROTECTION

Duty to
inspect

10.—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

Idem

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

1. Food premises and any food and equipment thereon or therein.
2. Premises used or intended for use as a boarding house or lodging house.

Complaint
re health
hazard
related to
occupational
or
environmental
health

11.—(1) Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

Duty of
M.O.H. re
occupational
and
environmental
health

12.—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of
information
to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing.

Order by
M.O.H. or
public health
inspector re
health hazard

13.—(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a

written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard.

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds, Condition precedent to order

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. Time

(4) An order under this section may include, but is not limited to, Idem

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;
- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person
directed

(5) An order under this section may be directed to a person,

- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
- (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
- (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

Reasons
for order

(6) An order under this section is not effective unless the reasons for the order are set out in the order.

Oral
order

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order.

Description
of person
directed

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

Directions
by M.O.H.

14.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When M.O.H.
may give
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. Contents of directions

(4) Directions under this section may include, but are not limited to, Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act or both;
- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

15.—(1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction. Recovery of expenses by action

(2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out, Statement to municipal clerk

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and

(c) the location of the premises.

Collection (3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health.

Recovery by occupier (4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner.

Recovery by owner (5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner.

Food premises **16.**—(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of intention to commence operation (2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons employed on or in food premises (3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information (4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

Records (5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of

food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

17. No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause. Sale of diseased food

18.—(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Unpasteurized or unsterilized milk
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*. Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk. Interpretation

19.—(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal. Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard. Examination

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized. Return

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard. Destruction

Food

(5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities
required in
residential
buildings

20. Every person who owns a residential building shall provide,

(a) potable water; and

(b) sanitary facilities or a privy,

for the residents of the residential building.

PART IV

COMMUNICABLE DISEASES

Interpretation

21.—(1) In this Part,

(a) “institution” means,

R.S.O. 1980,
c. 64

(i) “charitable institution” within the meaning of the *Charitable Institutions Act*,

R.S.O. 1980,
c. 67

(ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,

R.S.O. 1980,
c. 69

(iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,

R.S.O. 1980,
c. 71

(iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

R.S.O. 1980,
c. 111

(v) “day nursery” within the meaning of the *Day Nurseries Act*,

R.S.O. 1980,
c. 118

(vi) “facility” within the meaning of the *Developmental Services Act*,

R.S.O. 1980,
c. 201

(vii) “approved home” and “home for retarded persons” within the meaning of the *Homes for Retarded Persons Act*,

- (viii) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (ix) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (x) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980, 262
- (xi) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiii) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xiv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xv) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvi) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xvii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. Idem R.S.O. 1980, c. 410

22.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease. Order by M.O.H. re communicable disease

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds, Condition precedent to order

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a com-

communicable disease in the health unit served by the medical officer of health;

(b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and

(c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may
be included
in order

(4) An order under this section may include, but is not limited to,

(a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;

(b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;

(c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;

(d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;

(e) requiring the destruction of the matter or thing specified in the order;

(f) requiring the person to whom the order is directed to submit to an examination by a physician and to deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

(g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself forthwith under the care and treatment of a physician;

(h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

23. Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

24.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. Directions by M.O.H.

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20, When M.O.H. may give directions

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Recovery of expenses

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction.

Duty to report disease
R.S.O. 1980,
cc. 196, 127

25. A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of disease

26. A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

27.—(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of hospital administrator to report re disease

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

28. The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

29.—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Contents and time of report

(3) In this section “laboratory” has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Interpretation R.S.O. 1980, c. 409

30. A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Duty to report death R.S.O. 1980, c. 524

31. Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Reports by M.O.H. re diseases

Communica-
tion
between
medical
officers of
health

32.—(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Transmittal
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communicable
diseases of
the eyes

33. Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Physician
to report
refusal or
neglect of
treatment

34.—(1) Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to
be made
to M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

Transmittal
to M.O.H.
where
person
resides

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Additional
information

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Order by
provincial
offences
court

35.—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

When court
may make
order

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health, Contents of order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to provide detention, care and treatment for the person who is the subject of the order. Capability of hospital

(5) An order under this section is authority for any person, Delivery to hospital

- (a) to locate and apprehend the person who is the subject of the order; and
- (b) to deliver the person who is the subject of the order to the hospital named in the order.

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order. Police assistance

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued. Care and treatment

- Physician responsible (8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.
- Reports (9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.
- Idem (10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.
- Order to continue detention and treatment (11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,
- (a) that the person continues to be infected with an agent of a virulent disease; and
 - (b) that the discharge of the person from the hospital would present a significant risk to the health of the public,
- by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.
- Release and discharge from hospital (12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.
- Certificate of M.O.H. (13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.
- Hearing of application (14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on proceeding before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpretation

(17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

Appeal

R.S.O. 1980, c. 400

(18) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.

Stay

(19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.

Appeal to Court of Appeal

(20) No leave for appeal shall be granted under subsection (19) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.

Grounds for leave

36.—(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.

Where person withdraws from care and treatment

Failure to
comply with
isolation
order

(2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 35 applies with necessary modifications.

Examination
of person
under
detention

37.—(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.

Order
by M.O.H.
re person
under
detention

(2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

Interpretation

(3) In this section,

R.S.O. 1980,
c. 275

(a) “correctional institution” has the same meaning as in the *Ministry of Correctional Services Act*;

R.S.O. 1980,
c. 302

(b) “lock-up” has the same meaning as in section 206 of the *Municipal Act*;

R.S.O. 1980,
c. 398

(c) “observation and detention home” has the same meaning as in the *Provincial Courts Act*;

R.S.O. 1980,
c. 508

(d) “training school” has the same meaning as in the *Training Schools Act*.

Confidentiality

38.—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Exceptions

(2) Subsection (1) does not apply,

(a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;

- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- (d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or R.S.O. 1980, cc. 196, 410, 197
R.S.C. 1970, cc. M-8, C-34
- (e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child. R.S.O. 1980, c. 66

39.—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease. Supply of drugs, etc., by unqualified person prohibited

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance. Exception re pharmacist
R.S.O. 1980, c. 196

PART V

RIGHTS OF ENTRY AND APPEALS FROM ORDERS

40.—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following: Interpretation, persons

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following: Interpretation, purposes

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

- Entry (3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).
- Examinations (4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).
- Samples or extracts (5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2).
- Reasonable times (6) The authority under subsections (3) to (5) shall be exercised only at reasonable times.
- Private residence (7) Subsection (3) is not authority to enter a private residence without the consent of the occupier.
- Food premise (8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry.
- Compliance with requirement (9) An operator of a food premise shall comply promptly with a requirement under subsection (8).
- Copies (10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.
- Application for warrant (11) If an occupier of premises,
- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
 - (b) instructs a person mentioned in subsection (1) to leave the premises;

- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 42.

41.—(1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a medical officer of health lawfully carrying out a power, duty or direction under this Act. Obstruction

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1). Private residence

42.—(1) Where a justice of the peace is satisfied on evidence upon oath, Warrant by justice of the peace

- (a) that there is reasonable and probable ground for believing that it is necessary,
 - (i) to enter and have access to, through and over any premises,
 - (ii) to make examinations, investigations, tests and inquiries, and
 - (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

- (b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,
 - (i) has been denied entry to the premises,

- (ii) has been instructed to leave the premises,
- (iii) has been obstructed, or
- (iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

Execution of warrant

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

Expiry of warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued.

Ex parte application

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

Notice of right to hearing

43.—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Oral order


(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order.

Effect of order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect,

- (a) when it is served on the person to whom it is directed;
- or

- (b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of. 

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order. Powers of Board

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just. Time for hearing

(6) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension. Extension of time for hearing

44.—(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. Parties

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor inde- Members holding hearing not to have taken part in investigation, etc.

pendent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(4) The oral evidence taken before the Board at a hearing 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

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to court

45.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Stay of order

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Record to be filed in court

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Minister entitled to be heard

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

Powers of court on appeal

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Health Protection Appeal Board

46.—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board. Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman. Vacancy

(4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms. Terms

(5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(6) Three members of the Board constitute a quorum. Quorum

(7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment. Sittings

(8) The Board may determine its own practice and procedure in relation to a hearing. Practice and procedure

(9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings. Decision

(10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private. Hearings to be public, exceptions

PART VI

HEALTH UNITS AND BOARDS OF HEALTH

47. There shall be a board of health for each health unit. Boards of health

48.—(1) A board of health is composed of the members appointed to the board under this Act and the regulations. Composition of board of health

- Municipal members (2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
- Appointments by Lieutenant Governor in Council (3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health.
- Remuneration (4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate.
- Expenses (5) A board of health shall pay the reasonable and actual expenses of each member of the board of health.
- Rate of remuneration (6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate.
- Term of office (7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council.
- Disqualification (8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*.
R.S.O. 1980, c. 302
- Application of subss. (1-8) (9) Subsections (1) to (8) do not apply to,
R.S.O. 1980, c. 365
- (a) the board of health under the *County of Oxford Act*;
 - (b) a board of health under an Act establishing or continuing a regional municipality; or
 - (c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.
- Application of R.S.O. 1980, c. 302 (10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards).
- Member of municipal council (11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other

than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality.

49.—(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which, Agreement with council of band

(a) the board agrees to provide health programs and services to the members of the band; and

(b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit. Appointment of member by council of band

(3) The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2). Joint appointment

(4) An appointment under this section may be for one, two or three years. Term

(5) In this section, “band”, “council of the band” and “reserve” have the same meanings as in the *Indian Act* (Canada). Interpretation R.S.C. 1970, c. 1-6

50.—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years. Term of office

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member. Vacancy

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health. Disqualification

51.—(1) Every board of health is a corporation without share capital. Board to be corporation

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health. Application of R.S.O. 1980, cc. 95, 96

Real property (3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents required (4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

Name of board 52. The name of each board of health shall be the "Board of Health for the (inserting the name of the health unit) Health Unit".

Quorum 53. A majority of the members of a board of health constitutes a quorum of the board.

Application of ss. 51-53, 55-58 54. Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

By-laws 55.—(1) A board of health shall pass by-laws respecting, (a) the management of its property; (b) banking and finance; (c) the calling of and proceedings at meetings; and (d) the appointment of an auditor.

Idem (2) A board of health may pass by-laws respecting, (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and (b) any other matter necessary or advisable for the management of the affairs of the board of health.

First meeting 56.—(1) A board of health shall hold its first meeting of each year not later than the 1st day of February.

Chairman (2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

57. A board of health shall keep or cause to be kept minutes ^{Minutes} of its proceedings and the text of the by-laws and resolutions passed by it.

58.—(1) A board of health shall keep or cause to be kept, ^{Financial records}

- (a) books, records and accounts of its financial affairs;
- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

(2) A board of health shall cause to be prepared statements of ^{Annual financial statements} its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.

(3) A board of health need not keep any records, statements, ^{Retention of records} minutes, accounts or other materials beyond the period of time prescribed by the regulations.

59.—(1) With respect to the board of health for the health ^{Certain boards of health in Metropolitan Toronto} unit related to each municipality specified in subsection (2),

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

(2) The municipalities referred to in subsection (1) are the ^{Municipalities specified} following:

1. The Borough of Etobicoke.
2. The City of North York.

3. The Borough of Scarborough.

4. The City of Toronto.

Duty of
board of
health

60. Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.

Medical
officer of
health

61. Every board of health,

(a) shall appoint a full-time medical officer of health; and

(b) may appoint one or more associate medical officers of health,

of the board of health.

Use of title

62. A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.

Eligibility for
appointment

63. No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

(a) he is a physician;

(b) he possesses the qualifications and requirements prescribed by the regulations for the position; and

(c) the Minister approves the proposed appointment.

Retirement

64.—(1) Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Extension

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Dismissal

65.—(1) A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

(a) the decision is carried by the vote of two-thirds of the members of the board; and

(b) the Minister consents in writing to the dismissal.

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health, Notice and attendance

(a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;

(b) a written statement of the reason for the proposal to dismiss the medical officer of health; and

(c) an opportunity to attend and to make representations to the board at the meeting.

66.—(1) The medical officer of health of a board of health is the executive officer of the board. Executive officer

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board. Direction of staff

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board. Management and administration

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health. Area of authority

67.—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health. Duties of associate M.O.H.

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health. Where M.O.H. absent or unable to act

68.—(1) Where, Acting M.O.H.

(a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and

(b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

Powers and
duties

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Attendance
at meetings
of boards

69. The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Staff

70.—(1) Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Qualifications

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Public
health
nurse

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

(a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and

(b) meets such additional qualifications and requirements as are prescribed by the regulations.

Expenses

71.—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

Municipal
authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

72. Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require. Reports

73.—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister. Financial inspectors

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations. Obstruction

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires. Information

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector. Access to records

74.—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health. Where Minister is of opinion that management or administration of affairs of board of health are inadequate

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health. Directions by Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medi- Duty of board of health

cal Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Action on behalf of board of health, etc.

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action by board of health

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative or professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Right of access

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Duration of directions

(7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants

75. The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of health units

76.—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and liabilities

(2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health

units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

(3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Alteration
of boundaries
of health
units

(4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

Order by
Minister

PART VII

ADMINISTRATION

77.—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

Investiga-
tion re
disease and
mortality

(2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario.

Direction to
investigate

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of
investigator
R.S.O. 1980,
c. 411

78.—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper.

Public health
laboratory
centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction.

Direction
by Minister

79.—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment
of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other

Duty

public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

- Limitation (3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable.
- Directions and reports (4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.
- Certificate of appointment (5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.
- Chief Medical Officer of Health **80.**—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.
- Qualifications (2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.
- Duty of Chief M.O.H re occupational and environmental health (3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.
- Examinations of records by Chief Medical Officer of Health **81.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.
- Copies (2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.
- Delegation (3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.
- Where board of health not providing health program or service **82.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.
- Expenses (2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the

expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

83. Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Where
situation
of risk
to health

84.—(1) For the purposes of sections 82 and 83, the Chief Medical Officer of Health,

Powers of
Chief Medical
Officer of
Health

- (a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and
- (b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,
 - (i) that the person has power to do under this Act, or
 - (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority
and duty
of person
directed
to act

- (a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and
- (b) the person shall carry out the direction as soon as practicable.

85.—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

Idem (2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem (3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Possession of premises for temporary isolation facility **86.**—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Grounds for order (2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

(a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and

(b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of possession (3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and submissions (4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for possession (5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

(a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;

- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
- (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
 - (ii) is not likely to comply with the Minister's order under subsection (1), or
 - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of warrant

(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. Ex parte application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located. Termination of use of premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation. Compensation R.S.O. 1980, c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section. Application of R.S.O. 1980, c. 148

87. The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Northern Ontario Public Health Service

Ontario that are designated by the Minister and that are not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

Health
services
in isolated
municipalities

88.—(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals whose services may be employed by a board of health.

Idem

(2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

Repeal of
ss. 87, 88

89.—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Application
of subs. (1)

(2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

Agreement
with
organization

90. The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health

inspectors and other public health professionals that may be employed by a board of health.

91. The Minister, the Chief Medical Officer of Health, a Hearings medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.

92. The Minister may appoint a person to perform the duties Appointment of public health professionals and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.

93. The Lieutenant Governor in Council may appoint one or Provincial analysts more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.

94.—(1) No action or other proceeding for damages or Protection from personal liability otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for Exception judicial review or a proceeding that is specifically provided for in this Act.

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without Board of health not relieved of liability authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted.

(4) No action or other proceeding shall be instituted against a Protection from liability for reports person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV.

PART VIII

REGULATIONS

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

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

Regulations
relating to
Part II

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them.

Regulations
relating to
Part III

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
 - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
 - (ii) requiring the installation and maintenance of safety equipment,
 - (iii) requiring the presence of lifeguards and other staff, and
 - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;

- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of persons who are employed on or in food premises and requiring compliance therewith;
- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughter-houses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;

- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

Regulations
relating to
Part IV

(4) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional

information and the form and content of such reports and additional information;

- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;
- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI, Regulations
relating to
Part VI

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;
- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
 - (i) the number of municipal members of the board,
 - (ii) by whom each of the municipal members of the board shall be appointed,
 - (iii) the area or place that each municipal member of the board is to represent,
 - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980,
c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corpora-

tion, has the powers, rights and duties of a local board of health or of a board of health;

- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody, keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,
 - (i) the proceedings of boards of health,
 - (ii) the text of by-laws and resolutions of boards of health,
 - (iii) the financial and administrative affairs of boards of health,
 - (iv) mandatory health programs and services,
 - (v) other health programs and services,
 - (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations
by Minister

96. The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of
regulations

97.—(1) A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption
of codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code,

formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the same type or with the same attributes, qualities or characteristics. Classes

98. Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations. Form, etc.,
of reports
or notices

PART IX

ENFORCEMENT

99.—(1) Any person who fails to obey an order made under this Act is guilty of an offence. Offence,
orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence. Offence,
reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence. Offence,
sections
of Act

(4) Any person who contravenes a regulation is guilty of an offence. Offence,
regulations

100.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is convicted of an offence under this Act, Directors,
officers,
employees
and agents

(a) each director of the corporation; and

- (b) each officer, employee 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 guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings
to restrain
contravention
of order

101.—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of
order as
evidence

102.—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate
as evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of
compliance
with order

103. A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

104. No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Furnishing
false
information

105.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his last known address.

Service

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service
deemed made

PART X

TRANSITION AND REPEALS

106. Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health
units
R.S.O. 1980,
c. 409

107. Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of
health
continued
R.S.O. 1980,
c. 409

108. The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board
member
continued
in office

109. The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical
officers of
health
continued
in office

110.—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the

By-laws
continued

regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

Compliance (2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Repeals **111.**—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

Idem (2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION
CENTRE LICENSING ACT

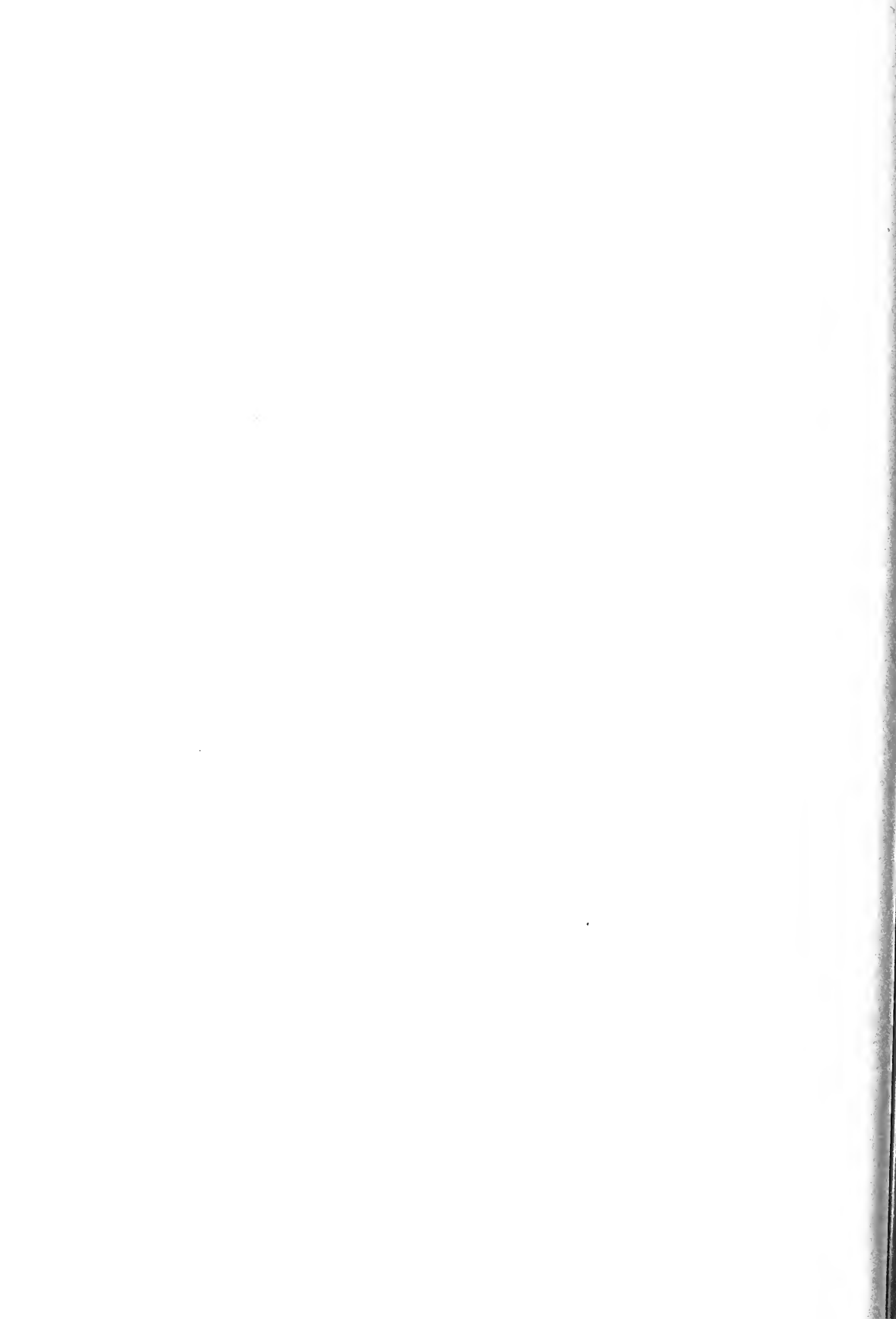
Idem (3) The following are repealed:

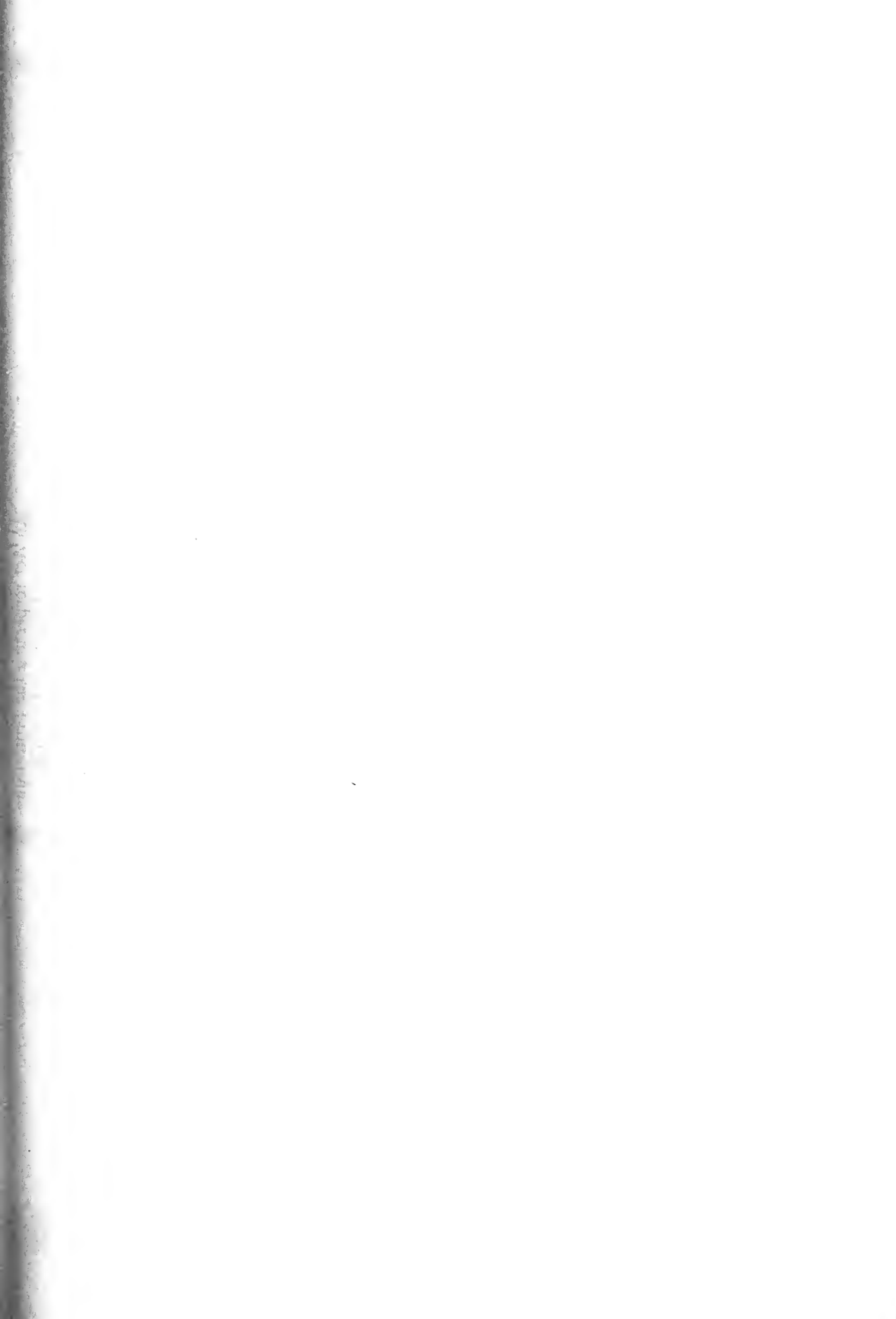
1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-
ment **112.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **113.** The short title of this Act is the *Health Protection Act, 1982*.







1911, 131
An Act respecting the Protection
of the Health of the Public

1st Reading

June 8th, 1982

2nd Reading

June 29th, 1982

3rd Reading

THE HON. L. GROSSMAN
Minister of Health

*(Reprinted as amended by the
Social Development Committee)*

Bill 138

An Act respecting the Protection and Promotion of the Health of the Public

The Hon. L. Grossman
Minister of Health

1st Reading June 8th, 1982

2nd Reading June 29th, 1982

3rd Reading

Royal Assent

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

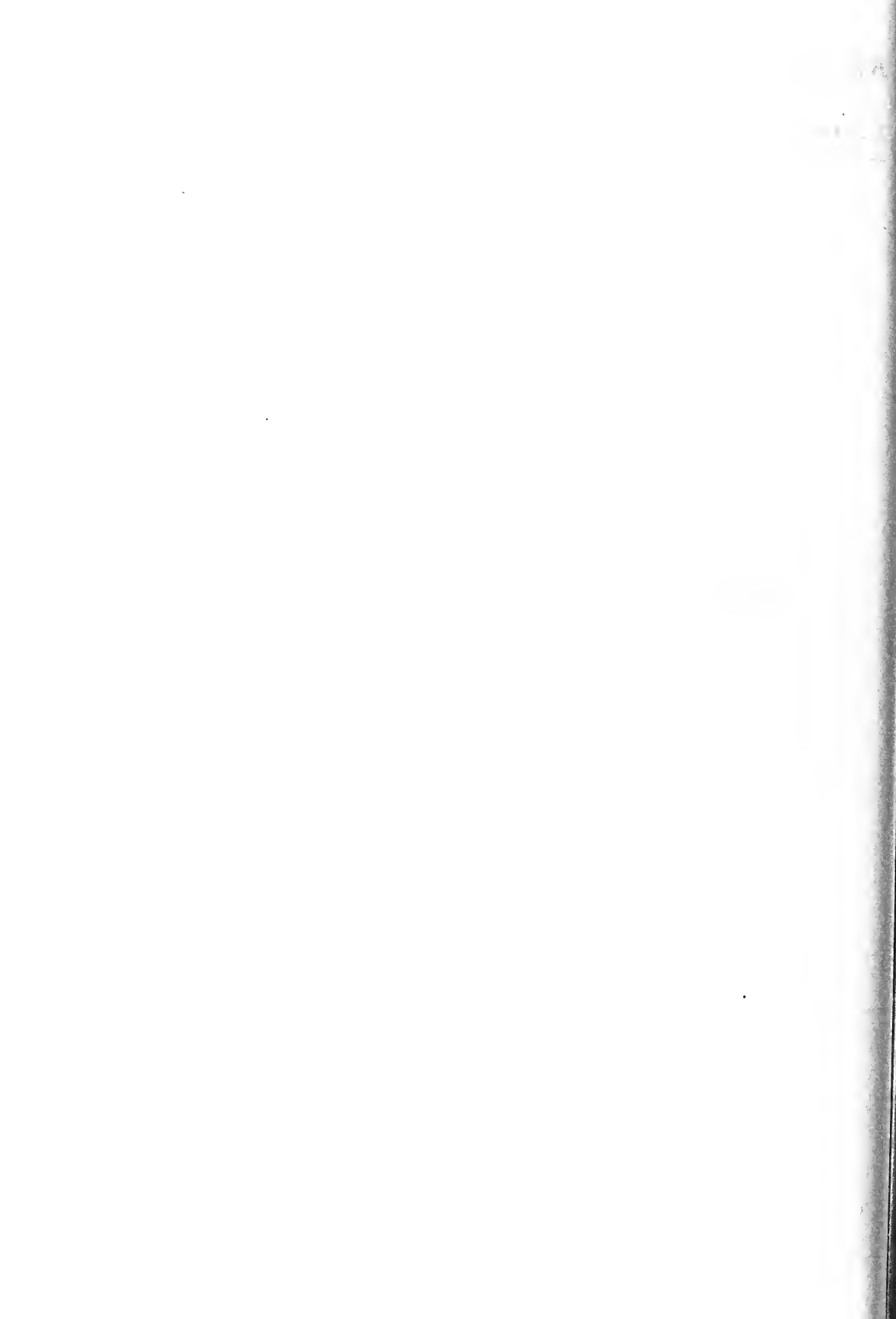


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EXPLANATORY NOTES

The Bill revises the *Public Health Act*, except sections 3 to 5 (inspectors), sections 59 to 75 (medical laboratories and specimen collection centres) and subsections 150 (2), (3) and (4) (penalties).

The Bill is divided into the following parts:

- Part I — Interpretation
- Part II — Health Programs and Services
- Part III — Community Health Protection
- Part IV — Communicable Diseases
- Part V — Rights of Entry and Appeals from Orders
- Part VI — Health Units and Boards of Health
- Part VII — Administration
- Part VIII — Regulations
- Part IX — Enforcement
- Part X — Transition and Repeals

Part I contains section 1, the interpretation section, and section 2, which states that the purpose of the Act is to provide for the organization and delivery of health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Part II relates to the provision of mandatory and optional health programs and services by boards of health.

Part III, Community Health Protection, requires medical officers of health to provide for inspections in health units. Medical officers of health and public health inspectors are authorized to make orders to decrease the effect of or to eliminate health hazards. The term "health hazard" is defined in the Bill.

The Part also requires medical officers of health to keep themselves informed in respect of matters related to occupational and environmental health and to respond to complaints about health hazards related to occupational or environmental health. Municipalities and Government ministries are required to provide information related to occupational or environmental health requested by a medical officer of health if the information is available and not restricted by law.

The Part also authorizes medical officers of health to direct the staff and agents of boards of health to do work in a health unit where a health hazard is apparent and an order may not be an effective way of dealing with it. The expenses incurred by a board of health in respect of a health hazard may be recovered by court action or may be added to the collector's roll and collected in the same manner as municipal real property taxes.

The regulation of food premises and the sale of milk are also dealt with in the Part.

The Part also authorizes the seizure and examination of anything that may be a health hazard.

The sale of unfit food is prohibited and potable water and toilets must be provided in residential buildings.

Part IV, Communicable Diseases, authorizes a medical officer of health to make orders to decrease or eliminate the risk to health presented by a communicable disease.

The Part requires hospital administrators and other health professionals to report the existence of prescribed diseases to the medical officer of health (M.O.H.) and requires the M.O.H. to report to the Ministry.

The Part also provides that where a person fails to comply with an order by a medical officer of health related to examination and treatment in respect of a virulent disease, a provincial offences court may order the detention, examination and treatment of the person. An order of a provincial offences court may be appealed to a county or district court and from there, with leave, to the Court of Appeal.

The Part also requires a physician to report to the medical officer of health the name and address of any patient who refuses or neglects treatment for a communicable disease (section 34).

The Part also deals with the control of communicable diseases in correctional institutions, training schools, lock-ups and observation and detention homes (section 37).

Confidentiality of information in respect of diseases is provided for in section 38.

Section 39, which prohibits unqualified persons from supplying drugs or providing treatment for the purpose of alleviating or curing a sexually transmitted disease is brought forward from section 11 of the *Venereal Diseases Prevention Act*.

Part V deals with rights of entry and appeals from orders made under the Act.

The Part also establishes the Health Protection Appeal Board.

Part VI deals with boards of health (located mainly in sections 17 to 48 of the *Public Health Act*) and medical officers of health.

The Part deals with the composition of boards of health, their legal status, names, meetings and records. Section 59 of the Bill relates specifically to the boards of health of the following Metropolitan Toronto municipalities: the Borough of Etobicoke, the City of North York, the Borough of Scarborough and the City of Toronto.

The Part also deals with the appointment of medical officers of health, their retirement, dismissal and status. Provision is also made for associate and acting medical officers of health and other staff, including public health nurses.

The duty of the municipalities in a health unit in relation to the expenses of the board of health of the health unit is dealt with in section 71.

Boards of health are required to provide reports to the Minister and the councils of municipalities in the health units served by the boards of health (section 72).

Section 73 authorizes inspection of the accounts of boards of health by financial inspectors appointed by the Minister.

Section 74 authorizes the Minister to direct the Chief Medical Officer of Health to provide advice and guidance to a board of health, the medical officer of health and the administrative and professional staffs of the board of health and to act in their place if they do not accede to his requests. The authority of this section

may be employed if the Minister is of the opinion that the quality of the management and administration of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

The payment of grants to boards of health and to persons or organizations is authorized (section 75).

The merger of health units and the alteration of the boundaries of health units are dealt with in section 76.

Part VII, Administration, authorizes the Minister to investigate causes of disease and provides for the appointment of a Chief Medical Officer of Health and states his authority to act.

The Chief Medical Officer of Health has authority to examine the records of a board of health (section 81).

Under section 82, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of any mandatory health program or service that a board of health is required to provide but is not providing.

Under section 83, the Minister may direct the Chief Medical Officer of Health to take appropriate action in a situation that constitutes or may constitute a risk to health.

The powers that may be exercised by the Chief Medical Officer of Health for the purposes of sections 82 and 83 are set out in section 84. The expenses of carrying out a direction by the Chief Medical Officer of Health or a medical officer of health are provided for in section 85.

The Part provides for the taking of premises for use as a temporary isolation facility.

The Part also provides for the appointment of provincial analysts.

The Part also provides for public health services in areas not within health units.

Part VIII provides for regulations and Part IX contains enforcement provisions.

Part X contains transition and repeal provisions including the repeal of:

1. *The Sanatoria for Consumptives Act.*
2. *The Venereal Diseases Prevention Act.*

(The subject-matter of these Acts is now dealt with in Part IV, Communicable Diseases.)

3. Section 2 of *The Borough of North York Act, 1977.*
4. *The Borough of Etobicoke Act, 1980.*

(The subject-matter of these is dealt with in Part VI, Health Units and Boards of Health.)

Bill 138

1982

**An Act respecting the Protection
and Promotion of the Health of the Public**

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

PART I

INTERPRETATION

1.—(1) In this Act,

Inter-
pre-
tation

1. “Board” means the Health Protection Appeal Board under this Act;
2. “board of health” means a board of health established or continued under this Act and includes,
 - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,
c. 365
 - ii. a board of health under an Act establishing or continuing a regional municipality, and
 - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. “Chief Medical Officer of Health” means the Chief Medical Officer of Health under this Act;
4. “communicable disease” means a disease specified as a communicable disease by regulation made by the Minister;
5. “dwelling unit” means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
 - i. a condition of a premises,
 - ii. a substance, thing, plant or animal other than man, or
 - iii. a solid, liquid, gas or combination of any of them,that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority

exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,

- i. a person who is in physical possession of premises,
- ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or
- iii. a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;

20. "physician" means a legally qualified medical practitioner;

21. "premises" means lands and structures, or either of them, and includes,

- i. water,
- ii. ships and vessels,
- iii. trailers and portable structures designed or used for residence, business or shelter,
- iv. trains, railway cars, vehicles and aircraft;

22. "public health inspector" means a public health inspector of a board of health;

23. "public health nurse" means a public health nurse of a board of health;

24. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,
 - i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or
 - ii. one that is used solely for commercial display and demonstration purposes;
25. "regulations" means regulations made under this Act;
26. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
27. "residential building" means a structure that contains one or more dwelling units;
28. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
29. "school" means a "private school" and a "school" as defined in the *Education Act*;
30. "school board" means a board as defined in the *Education Act*;
31. "sexually transmitted disease" means a disease caused by an infectious agent usually transmitted during sexual contact;
32. "virulent disease" means,
 - i. Cholera,
 - ii. Diphtheria,
 - iii. Ebola virus disease,
 - iv. Gonorrhoea,
 - v. Hemorrhagic fever,
 - vi. Lassa fever,

- vii. Leprosy,
- viii. Marburg virus disease,
- ix. Plague,
- x. Syphilis,
- xi. Smallpox,
- xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of premises is an order, Closing of premises

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

2. The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario. Purpose

3. This Act binds the Crown.

Act binds
Crown

PART II

HEALTH PROGRAMS AND SERVICES

4. Every board of health,

Duty of
board of
health

- (a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
- (b) shall perform such other functions as are required by or under this or any other Act.

Mandatory
health
programs and
services

5. Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas:

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
 - i. provision of counselling services,
 - ii. establishment of family planning services,
 - iii. programs to identify pregnant women who are in high-risk health categories,
 - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
 - v. provision of preschool and school health services,
 - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,
c. 197

6.—(1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

School pupils

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school.

Consent of school

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Application of subs. (1)

(4) Where a board of health is required by this Act or the regulations, on request of a person or organization that operates a school, to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit.

Prohibition

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*.

Separate school rights preserved
1867, c. 3;
R.S.O. 1980,
c. 129

7.—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines.

Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry.

Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*.

Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails.

Conflict

8. A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines.

Extent of programs and services

9. A board of health may provide any other health program or service in any area in the health unit served by the board of health if,

Optional health programs and services

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service.

PART III

COMMUNITY HEALTH PROTECTION

Duty to inspect

10.—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

Idem

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

1. Food premises and any food and equipment thereon or therein.
2. Premises used or intended for use as a boarding house or lodging house.

Complaint re health hazard related to occupational or environmental health

11.—(1) Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

Duty of M.O.H. re occupational and environmental health

12.—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of information to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any

matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing.

13.—(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard.

Order by
M.O.H. or
public health
inspector re
health hazard

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

Condition
precedent to
order

(a) that a health hazard exists in the health unit served by him; and

(b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Time

(4) An order under this section may include, but is not limited to,

What may
be included
in order

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;

- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person directed

- (5) An order under this section may be directed to a person,
- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
 - (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
 - (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

Reasons for order

(6) An order under this section is not effective unless the reasons for the order are set out in the order.

Oral order

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order.

Description of person directed

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

Directions by M.O.H.

14.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When M.O.H. may give directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a

health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. Contents of directions

(4) Directions under this section may include, but are not limited to, Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act, or both;
- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

15.—(1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction. Recovery of expenses by action

Statement to
municipal
clerk

(2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out,

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and
- (c) the location of the premises.

Collection

(3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health.

Recovery by
occupier

(4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner.

Recovery by
owner

(5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner.

Food
premises

16.—(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of
intention to
commence
operation

(2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons
employed on
or in food
premises

(3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information

(4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing,

processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

(5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations. Records

17. No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause. Sale of diseased food

18.—(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Unpasteurized or unsterilized milk
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*. Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk. Interpretation

19.—(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal. Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard. Examination

Return

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized.

Destruction

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard.

Food

(5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities
required in
residential
buildings

20. Every person who owns a residential building shall provide,

- (a) potable water; and
- (b) sanitary facilities or a privy,

for the residents of the residential building.

PART IV

COMMUNICABLE DISEASES

Interpre-
tation

21.—(1) In this Part,

(a) “institution” means,

(i) “charitable institution” within the meaning of the *Charitable Institutions Act*,

(ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,

(iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,

(iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

R.S.O. 1980,
c. 64

R.S.O. 1980,
c. 67

R.S.O. 1980,
c. 69

R.S.O. 1980,
c. 71

- (v) "day nursery" within the meaning of the *Day Nurseries Act*, R.S.O. 1980, c. 111
- (vi) "facility" within the meaning of the *Developmental Services Act*, R.S.O. 1980, c. 118
- (vii) "approved home" and "home for retarded persons" within the meaning of the *Homes for Retarded Persons Act*, R.S.O. 1980, c. 201
- (viii) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (ix) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (x) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980, c. 262
- (xi) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiii) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xiv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xv) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvi) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xvii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. *Idem* R.S.O. 1980, c. 410

Order by
M.O.H. re
communi-
cable disease

22.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

Condition
precedent to
order

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease in the health unit served by the medical officer of health;
- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may be
included in
order

(4) An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to

deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

- (g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

23. Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

Directions by
M.O.H.

24.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When
M.O.H. may
give
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of
directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Recovery of
expenses

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction.

25. A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient in or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty to report disease
R.S.O. 1980, cc. 196, 127

26. A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of disease

27.—(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of hospital administrator to report re disease

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

28. The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

29.—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

- Contents and time of report (2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.
- Interpretation R.S.O. 1980, c. 409 (3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.
- Duty to report death R.S.O. 1980, c. 524 **30.** A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.
- Reports by M.O.H. re diseases **31.** Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.
- Communication between medical officers of health **32.**—(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.
- Transmittal of report (2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.
- Communicable diseases of the eyes **33.** Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.
- Physician to report refusal or neglect of treatment **34.**—(1) Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.
- Report to be made to M.O.H. (2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Transmittal to M.O.H. where person resides

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Additional information

35.—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

Order by provincial offences court

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

When court may make order

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health,

Contents of order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to

Capability of hospital

provide detention, care and treatment for the person who is the subject of the order.

Delivery to
hospital

- (5) An order under this section is authority for any person,
- (a) to locate and apprehend the person who is the subject of the order; and
 - (b) to deliver the person who is the subject of the order to the hospital named in the order.

Police
assistance

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

Care and
treatment

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

Physician
responsible

(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.

Reports

(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.

Idem

(10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.

Order to
continue
detention
and
treatment

(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,

- (a) that the person continues to be infected with an agent of a virulent disease; and

- (b) that the discharge of the person from the hospital would present a significant risk to the health of the public,

by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.

(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.

Release and
discharge
from hospital

(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.

Certificate of
M.O.H.

(14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

Hearing of
application

(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.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on
proceeding
before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpre-
tation

- Appeal
R.S.O. 1980,
c. 400
- (17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.
- Stay
- (18) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.
- Appeal to
Court of
Appeal
- (19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.
- Grounds for
leave
- (20) No leave for appeal shall be granted under subsection (19) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.
- Where
person
withdraws
from care
and
treatment
- 36.**—(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.
- Failure to
comply with
isolation
order
- (2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 35 applies with necessary modifications.
- Examination
of person
under
detention
- 37.**—(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.
- Order by
M.O.H. re
person under
detention
- (2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such

action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

(3) In this section,

Interpretation

- (a) "correctional institution" has the same meaning as in the *Ministry of Correctional Services Act*; R.S.O. 1980, c. 275
- (b) "lock-up" has the same meaning as in section 206 of the *Municipal Act*; R.S.O. 1980, c. 302
- (c) "observation and detention home" has the same meaning as in the *Provincial Courts Act*; R.S.O. 1980, c. 398
- (d) "training school" has the same meaning as in the *Training Schools Act*. R.S.O. 1980, c. 508

38.—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Confidentiality

(2) Subsection (1) does not apply,

Exceptions

- (a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;
- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- (d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or R.S.O. 1980, cc. 196, 410, 197
R.S.C. 1970, cc. M-8, C-34
- (e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child. R.S.O. 1980, c. 66

Supply of
drugs, etc.,
by
unqualified
person
prohibited

39.—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease.

Exception re
pharmacist
R.S.O. 1980,
c. 196

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

PART V

RIGHTS OF ENTRY AND APPEALS FROM ORDERS

Interpreta-
tion, persons

40.—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following:

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following:

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

Entry

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2). Samples or extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. Reasonable times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. Private residence

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry. Food premise

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8). Compliance with requirement

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. Copies

(11) If an occupier of premises, Application for warrant

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 42.

41.—(1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a med- Obstruction

ical officer of health lawfully carrying out a power, duty or direction under this Act.

Private
residence

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Warrant by
justice of the
peace

42.—(1) Where a justice of the peace is satisfied on evidence upon oath,

- (a) that there is reasonable and probable ground for believing that it is necessary,
 - (i) to enter and have access to, through and over any premises,
 - (ii) to make examinations, investigations, tests and inquiries, and
 - (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

- (b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,
 - (i) has been denied entry to the premises,
 - (ii) has been instructed to leave the premises,
 - (iii) has been obstructed, or
 - (iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health

inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of
warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. Expiry of
warrant

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. *Ex parte*
application

43.—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may also require such a hearing. Notice of
right to
hearing

(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order. Oral order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect, Effect of
order

(a) when it is served on the person to whom it is directed; or

(b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of.

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), Powers of
Board

the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order.

Time for hearing

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just.

Extension of time for hearing

(6) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Parties

44.—(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board.

Examination of documentary evidence

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

45.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Record to be filed in court

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

Minister entitled to be heard

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Powers of court on appeal

46.—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

Health Protection Appeal Board

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.

Vacancy

- Terms (4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
- Remuneration (5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Quorum (6) Three members of the Board constitute a quorum.
- Sittings (7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
- Practice and procedure (8) The Board may determine its own practice and procedure in relation to a hearing.
- Decision (9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
- Hearings to be public, exceptions (10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

PART VI

HEALTH UNITS AND BOARDS OF HEALTH

- Boards of health **47.** There shall be a board of health for each health unit.
- Composition of board of health **48.—(1)** A board of health is composed of the members appointed to the board under this Act and the regulations.
- Municipal members (2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
- Appointments by Lieutenant Governor in Council (3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health.
- Remuneration (4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate.

(5) A board of health shall pay the reasonable and actual expenses of each member of the board of health.

Expenses

(6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate.

Rate of remuneration

(7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council.

Term of office

(8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*.

Disqualification

R.S.O. 1980, c. 302

(9) Subsections (1) to (8) do not apply to,

Application of subss. (1-8)

(a) the board of health under the *County of Oxford Act*;

R.S.O. 1980, c. 365

(b) a board of health under an Act establishing or continuing a regional municipality; or

(c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.

(10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards).

Application of R.S.O. 1980, c. 302

(11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality.

Member of municipal council

49.—(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which,

Agreement with council of band

(a) the board agrees to provide health programs and services to the members of the band; and

- (b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

Appointment
of member
by council of
band

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit.

Joint
appointment

(3) The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2).

Term

(4) An appointment under this section may be for one, two or three years.

Interpre-
tation
R.S.C. 1970,
c. I-6

(5) In this section, "band", "council of the band" and "reserve" have the same meanings as in the *Indian Act* (Canada).

Term of
office

50.—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years.

Vacancy

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member.

Disqualifi-
cation

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be
corporation

51.—(1) Every board of health is a corporation without share capital.

Application
of
R.S.O. 1980,
cc. 95, 96

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

Real
property

(3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents
required

(4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

52. The name of each board of health shall be the "Board of Health for the
(inserting the name of the health unit)
 Health Unit".

Name of board

53. A majority of the members of a board of health constitutes a quorum of the board.

Quorum

54. Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

Application of ss. 51-53, 55-58

55.—(1) A board of health shall pass by-laws respecting,

By-laws

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor.

(2) A board of health may pass by-laws respecting,

Idem

- (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and
- (b) any other matter necessary or advisable for the management of the affairs of the board of health.

56.—(1) A board of health shall hold its first meeting of each year not later than the 1st day of February.

First meeting

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

Chairman

57. A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it.

Minutes

58.—(1) A board of health shall keep or cause to be kept,

Financial records

- (a) books, records and accounts of its financial affairs;

- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

Annual
financial
statements

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
 (b) an annual statement of assets and liabilities; and
 (c) an annual estimate of expenses for the next year.

Retention of
records

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations.

Certain
boards of
health in
Metropolitan
Toronto

59.—(1) With respect to the board of health for the health unit related to each municipality specified in subsection (2),

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) the council of the municipality shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

Muni-
cipalities
specified

(2) The municipalities referred to in subsection (1) are the following:

1. The Borough of Etobicoke.
2. The City of North York.
3. The Borough of Scarborough.
4. The City of Toronto.

60. Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health. Duty of board of health

61. Every board of health, Medical officer of health

(a) shall appoint a full-time medical officer of health; and

(b) may appoint one or more associate medical officers of health,

of the board of health.

62. A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board. Use of title

63. No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless, Eligibility for appointment

(a) he is a physician;

(b) he possesses the qualifications and requirements prescribed by the regulations for the position; and

(c) the Minister approves the proposed appointment.

64.—(1) Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years. Retirement

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years. Extension

65.—(1) A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless, Dismissal

- (a) the decision is carried by the vote of two-thirds of the members of the board; and
- (b) the Minister consents in writing to the dismissal.

Notice and attendance

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health,

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting.

Executive officer

66.—(1) The medical officer of health of a board of health is the executive officer of the board.

Direction of staff

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board.

Management and administration

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board.

Area of authority

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health.

Duties of associate M.O.H

67.—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health.

Where M.O.H. absent or unable to act

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health.

68.—(1) Where,

Acting
M.O.H.

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Powers and
duties

69. The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Attendance
at meetings
of boards

70.—(1) Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Staff

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Qualifi-
cations

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

Public health
nurse

R.S.O. 1980,
c. 196

- (a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and
- (b) meets such additional qualifications and requirements as are prescribed by the regulations.

Expenses

71.—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

Municipal authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

Reports

72. Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.

Financial inspectors

73.—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.

Obstruction

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

Information

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires.

Access to records

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector.

Where Minister is of opinion that management or administration of affairs of board of health are inadequate

74.—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is

adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health.

Directions by
Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Duty of
board of
health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action on
behalf of
board of
health, etc.

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Action by
board of
health

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Right of
access

Duration of directions (7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants **75.** The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of health units **76.—**(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and liabilities (2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

Alteration of boundaries of health units (3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Order by Minister (4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

PART VII

ADMINISTRATION

Investigation re disease and mortality **77.—**(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

Direction to investigate (2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario.

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of investigator
R.S.O. 1980,
c. 411

78.—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper.

Public health
laboratory
centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction.

Direction by
Minister

79.—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment
of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

Duty

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable.

Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.

Directions
and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.

Certificate of
appointment

80.—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Chief
Medical
Officer of
Health

(2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.

Qualifi-
cations

- Duty of Chief M.O.H. re occupational and environmental health (3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.
- Examinations of records by Chief Medical Officer of Health
Copies **81.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.
(2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.
- Delegation (3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.
- Where board of health not providing health program or service **82.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.
- Expenses (2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).
- Where situation of risk to health **83.** Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.
- Powers of Chief Medical Officer of Health **84.**—(1) For the purposes of sections 82 and 83, the Chief Medical Officer of Health,
(a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and
(b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,
(i) that the person has power to do under this Act,
or

- (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority and duty of person directed to act

- (a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and

- (b) the person shall carry out the direction as soon as practicable.

85.—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

86.—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Possession of premises for temporary isolation facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
 - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
 - (ii) is not likely to comply with the Minister's order under subsection (1), or
 - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

Execution of warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

Ex parte
application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located.

Termination
of use of
premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation.

Compensation

R.S.O. 1980,
c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section.

Application
of R.S.O.
1980, c. 148

87. The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit,

Northern
Ontario
Public Health
Service

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

88.—(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

Health
services in
isolated
municipalities

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals

whose services may be employed by a board of health.

Idem

(2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

Repeal of
ss. 87, 88

89.—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Application
of subs. (1)

(2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

Agreement
with organi-
zation

90. The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health.

Hearings

91. The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.

Appointment
of public
health
professionals

92. The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.

Provincial
analysts

93. The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.

Protection
from
personal
liability

94.—(1) No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any

act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

PART VIII

REGULATIONS

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

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

Regulations
relating to
Part II

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them.

Regulations
relating to
Part III

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
 - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
 - (ii) requiring the installation and maintenance of safety equipment,
 - (iii) requiring the presence of lifeguards and other staff, and
 - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of

persons who are employed on or in food premises and requiring compliance therewith;

- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughter-houses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

Regulations
relating to
Part IV

(4) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;

- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI, Regulations relating to Part VI

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;
- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
 - (i) the number of municipal members of the board,
 - (ii) by whom each of the municipal members of the board shall be appointed,
 - (iii) the area or place that each municipal member of the board is to represent,
 - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980, c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody,

keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,

- (i) the proceedings of boards of health,
- (ii) the text of by-laws and resolutions of boards of health,
- (iii) the financial and administrative affairs of boards of health,
- (iv) mandatory health programs and services,
- (v) other health programs and services,
- (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations
by Minister

96. The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of
regulations

97.—(1) A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption of
codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

Classes

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the

same type or with the same attributes, qualities or characteristics.

98. Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations.

Form, etc.,
of reports or
notices

PART IX

ENFORCEMENT

99.—(1) Any person who fails to obey an order made under this Act is guilty of an offence.

Offence,
orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence.

Offence,
reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence.

Offence,
sections of
Act

(4) Any person who contravenes a regulation is guilty of an offence.

Offence,
regulations

100.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is convicted of an offence under this Act,

Directors,
officers,
employees
and agents

(a) each director of the corporation; and

(b) each officer, employee 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 guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings
to restrain
contra-
vention of
order

101.—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of
order as
evidence

102.—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate as
evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of
compliance
with order

103. A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Furnishing
false
information

104. No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Service

105.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to

the person to whom it is to be given, served or delivered at his last known address.

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service deemed made

PART X

TRANSITION AND REPEALS

106. Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health units R.S.O. 1980, c. 409

107. Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of health continued

108. The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board member continued in office

109. The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical officers of health continued in office

110.—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws continued

(2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Compliance

Repeals

111.—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

Idem

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION CENTRE
LICENSING ACT

Idem

(3) The following are repealed:

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-
ment

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

Short title

113. The short title of this Act is the *Health Protection and Promotion Act, 1983*.



Bill 138

*(Chapter 10
Statutes of Ontario, 1983)*

An Act respecting the Protection and Promotion of the Health of the Public

The Hon. L. Grossman
Minister of Health

<i>1st Reading</i>	June 8th, 1982
<i>2nd Reading</i>	June 29th, 1982
<i>3rd Reading</i>	February 14th, 1983
<i>Royal Assent</i>	February 23rd, 1983



Bill 138

1982

**An Act respecting the Protection
and Promotion of the Health of the Public**

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

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. “Board” means the Health Protection Appeal Board under this Act;
2. “board of health” means a board of health established or continued under this Act and includes,
 - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,
c. 365
 - ii. a board of health under an Act establishing or continuing a regional municipality, and
 - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. “Chief Medical Officer of Health” means the Chief Medical Officer of Health under this Act;
4. “communicable disease” means a disease specified as a communicable disease by regulation made by the Minister;
5. “dwelling unit” means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
 - i. a condition of a premises,
 - ii. a substance, thing, plant or animal other than man, or
 - iii. a solid, liquid, gas or combination of any of them,that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority

exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,
 - i. a person who is in physical possession of premises,
 - ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or
 - iii. a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,notwithstanding that there is more than one occupier of the same premises;
19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;
20. "physician" means a legally qualified medical practitioner;
21. "premises" means lands and structures, or either of them, and includes,
 - i. water,
 - ii. ships and vessels,
 - iii. trailers and portable structures designed or used for residence, business or shelter,
 - iv. trains, railway cars, vehicles and aircraft;
22. "public health inspector" means a public health inspector of a board of health;
23. "public health nurse" means a public health nurse of a board of health;

24. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,
 - i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or
 - ii. one that is used solely for commercial display and demonstration purposes;
25. "regulations" means regulations made under this Act;
26. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
27. "residential building" means a structure that contains one or more dwelling units;
28. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
29. "school" means a "private school" and a "school" as defined in the *Education Act*;
30. "school board" means a board as defined in the *Education Act*;
31. "sexually transmitted disease" means a disease caused by an infectious agent usually transmitted during sexual contact;
32. "virulent disease" means,
 - i. Cholera,
 - ii. Diphtheria,
 - iii. Ebola virus disease,
 - iv. Gonorrhoea,
 - v. Hemorrhagic fever,
 - vi. Lassa fever,

- vii. Leprosy,
- viii. Marburg virus disease,
- ix. Plague,
- x. Syphilis,
- xi. Smallpox,
- xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of premises is an order, Closing of premises

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

2. The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario. Purpose

3. This Act binds the Crown. Act binds Crown

PART II

HEALTH PROGRAMS AND SERVICES

- 4.** Every board of health, Duty of board of health
- (a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
 - (b) shall perform such other functions as are required by or under this or any other Act.

Mandatory
health
programs and
services

5. Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas:

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
 - i. provision of counselling services,
 - ii. establishment of family planning services,
 - iii. programs to identify pregnant women who are in high-risk health categories,
 - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
 - v. provision of preschool and school health services,
 - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,
c. 197

6.—(1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

School pupils

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school.

Consent of school

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Application of subs. (1)

(4) Where a board of health is required by this Act or the regulations, on request of a person or organization that operates a school, to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit.

Prohibition

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*.

Separate school rights preserved
1867, c. 3;
R.S.O. 1980,
c. 129

7.—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines.

Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry.

Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*.

Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails.

Conflict

8. A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines.

Extent of programs and services

9. A board of health may provide any other health program or service in any area in the health unit served by the board of health if,

Optional health programs and services

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service.

PART III

COMMUNITY HEALTH PROTECTION

Duty to inspect

10.—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

Idem

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

1. Food premises and any food and equipment thereon or therein.
2. Premises used or intended for use as a boarding house or lodging house.

Complaint re health hazard related to occupational or environmental health

11.—(1) Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

Duty of M.O.H. re occupational and environmental health

12.—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of information to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any

matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing.

13.—(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard.

Order by
M.O.H. or
public health
inspector re
health hazard

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

Condition
precedent to
order

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Time

(4) An order under this section may include, but is not limited to,

Idem

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;

- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person directed

- (5) An order under this section may be directed to a person,
- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
 - (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
 - (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

Reasons for order

(6) An order under this section is not effective unless the reasons for the order are set out in the order.

Oral order

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order.

Description of person directed

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

Directions by M.O.H.

14.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When M.O.H. may give directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a

health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. Contents of directions

(4) Directions under this section may include, but are not limited to, Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act, or both;
- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

15.—(1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction. Recovery of expenses by action

Statement to
municipal
clerk

(2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out,

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and
- (c) the location of the premises.

Collection

(3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health.

Recovery by
occupier

(4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner.

Recovery by
owner

(5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner.

Food
premises

16.—(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of
intention to
commence
operation

(2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons
employed on
or in food
premises

(3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information

(4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing,

processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

(5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

Records

17. No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause.

Sale of diseased food

18.—(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*.

Unpasteurized or unsterilized milk
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*.

Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*.

Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk.

Interpretation

19.—(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal.

Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard.

Examination

Return (3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized.

Destruction (4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard.

Food (5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities required in residential buildings **20.** Every person who owns a residential building shall provide,

- (a) potable water; and
- (b) sanitary facilities or a privy,

for the residents of the residential building.

PART IV

COMMUNICABLE DISEASES

Interpretation **21.—(1)** In this Part,

(a) “institution” means,

- (i) “charitable institution” within the meaning of the *Charitable Institutions Act*,
 - (ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,
 - (iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,
 - (iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,
- R.S.O. 1980, c. 64
- R.S.O. 1980, c. 67
- R.S.O. 1980, c. 69
- R.S.O. 1980, c. 71

- (v) "day nursery" within the meaning of the *Day Nurseries Act*, R.S.O. 1980, c. 111
- (vi) "facility" within the meaning of the *Developmental Services Act*, R.S.O. 1980, c. 118
- (vii) "approved home" and "home for retarded persons" within the meaning of the *Homes for Retarded Persons Act*, R.S.O. 1980, c. 201
- (viii) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (ix) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (x) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980, c. 262
- (xi) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiii) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xiv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xv) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvi) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xvii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. Idem R.S.O. 1980, c. 410

Order by
M.O.H. re
communi-
cable disease

22.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

Condition
precedent to
order

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease in the health unit served by the medical officer of health;
- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may be
included in
order

(4) An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to

deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

- (g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

23. Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

Directions by
M.O.H.

24.—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When
M.O.H. may
give
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of
directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Recovery of
expenses

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction.

25. A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient in or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty to report disease
R.S.O. 1980, cc. 196, 127

26. A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of disease

27.—(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of hospital administrator to report re disease

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

28. The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

29.—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

Contents and
time of
report

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Interpre-
tation
R.S.O. 1980,
c. 409

(3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Duty to
report death
R.S.O. 1980,
c. 524

30. A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Reports by
M.O.H. re
diseases

31. Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Communi-
cation
between
medical
officers of
health

32.—(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Transmittal
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communi-
cable
diseases of
the eyes

33. Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Physician to
report refusal
or neglect of
treatment

34.—(1) Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to be
made to
M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Transmittal
to M.O.H.
where person
resides

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Additional
information

35.—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

Order by
provincial
offences
court

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

When court
may make
order

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health,

Contents of
order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to

Capability of
hospital

provide detention, care and treatment for the person who is the subject of the order.

Delivery to
hospital

- (5) An order under this section is authority for any person,
- (a) to locate and apprehend the person who is the subject of the order; and
 - (b) to deliver the person who is the subject of the order to the hospital named in the order.

Police
assistance

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

Care and
treatment

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

Physician
responsible

(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.

Reports

(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.

Idem

(10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.

Order to
continue
detention
and
treatment

(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,

- (a) that the person continues to be infected with an agent of a virulent disease; and

- (b) that the discharge of the person from the hospital would present a significant risk to the health of the public,

by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.

(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.

Release and discharge from hospital

(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.

Certificate of M.O.H.

(14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

Hearing of application

- (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.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on proceeding before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpretation

- Appeal
R.S.O. 1980,
c. 400
- (17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.
- Stay
- (18) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.
- Appeal to
Court of
Appeal
- (19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.
- Grounds for
leave
- (20) No leave for appeal shall be granted under subsection (19) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.
- Where
person
withdraws
from care
and
treatment
- 36.—**(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.
- Failure to
comply with
isolation
order
- (2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 35 applies with necessary modifications.
- Examination
of person
under
detention
- 37.—**(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.
- Order by
M.O.H. re
person under
detention
- (2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such

action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

(3) In this section,

Interpre-
tation

(a) "correctional institution" has the same meaning as in the *Ministry of Correctional Services Act*;

R.S.O. 1980,
c. 275

(b) "lock-up" has the same meaning as in section 206 of the *Municipal Act*;

R.S.O. 1980,
c. 302

(c) "observation and detention home" has the same meaning as in the *Provincial Courts Act*;

R.S.O. 1980,
c. 398

(d) "training school" has the same meaning as in the *Training Schools Act*.

R.S.O. 1980,
c. 508

38.—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Confiden-
tiality

(2) Subsection (1) does not apply,

Exceptions

(a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;

(b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;

(c) where the disclosure is made for the purposes of public health administration;

(d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or

R.S.O. 1980,
cc. 196, 410,
197

R.S.C. 1970,
cc. M-8, C-34

(e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child.

R.S.O. 1980,
c. 66

Supply of
drugs, etc.,
by
unqualified
person
prohibited

39.—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease.

Exception re
pharmacist
R.S.O. 1980,
c. 196

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

PART V

RIGHTS OF ENTRY AND APPEALS FROM ORDERS

Interpreta-
tion, persons

40.—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following:

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following:

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

Entry

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2). Samples or extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. Reasonable times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. Private residence

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry. Food premise

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8). Compliance with requirement

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. Copies

(11) If an occupier of premises, Application for warrant

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 42.

41.—(1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a med- Obstruction

ical officer of health lawfully carrying out a power, duty or direction under this Act.

Private
residence

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Warrant by
justice of the
peace

42.—(1) Where a justice of the peace is satisfied on evidence upon oath,

- (a) that there is reasonable and probable ground for believing that it is necessary,
 - (i) to enter and have access to, through and over any premises,
 - (ii) to make examinations, investigations, tests and inquiries, and
 - (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

- (b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,
 - (i) has been denied entry to the premises,
 - (ii) has been instructed to leave the premises,
 - (iii) has been obstructed, or
 - (iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health

inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. Expiry of warrant

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. *Ex parte* application

43.—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may also require such a hearing. Notice of right to hearing

(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order. Oral order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect, Effect of order

(a) when it is served on the person to whom it is directed; or

(b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of.

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), Powers of Board

the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order.

Time for hearing

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just.

Extension of time for hearing

(6) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Parties

44.—(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board.

Examination of documentary evidence

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

45.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Record to be filed in court

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

Minister entitled to be heard

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Powers of court on appeal

46.—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

Health Protection Appeal Board

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.

Vacancy

- Terms (4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
- Remuneration (5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Quorum (6) Three members of the Board constitute a quorum.
- Sittings (7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
- Practice and procedure (8) The Board may determine its own practice and procedure in relation to a hearing.
- Decision (9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
- Hearings to be public, exceptions (10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

PART VI

HEALTH UNITS AND BOARDS OF HEALTH

- Boards of health **47.** There shall be a board of health for each health unit.
- Composition of board of health **48.—(1)** A board of health is composed of the members appointed to the board under this Act and the regulations.
- Municipal members (2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
- Appointments by Lieutenant Governor in Council (3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health.
- Remuneration (4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate.

(5) A board of health shall pay the reasonable and actual expenses of each member of the board of health.

Expenses

(6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate.

Rate of remuneration

(7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council.

Term of office

(8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*.

Disqualification

R.S.O. 1980, c. 302

(9) Subsections (1) to (8) do not apply to,

Application of subss. (1-8)

R.S.O. 1980, c. 365

(a) the board of health under the *County of Oxford Act*;

(b) a board of health under an Act establishing or continuing a regional municipality; or

(c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.

(10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards).

Application of R.S.O. 1980, c. 302

(11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality.

Member of municipal council

49.—(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which,

Agreement with council of band

(a) the board agrees to provide health programs and services to the members of the band; and

- (b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

Appointment
of member
by council of
band

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit.

Joint
appointment

(3) The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2).

Term

(4) An appointment under this section may be for one, two or three years.

Interpre-
tation
R.S.C. 1970,
c. 1-6

(5) In this section, "band", "council of the band" and "reserve" have the same meanings as in the *Indian Act* (Canada).

Term of
office

50.—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years.

Vacancy

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member.

Disqualifi-
cation

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be
corporation

51.—(1) Every board of health is a corporation without share capital.

Application
of
R.S.O. 1980,
cc. 95, 96

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

Real
property

(3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents
required

(4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

52. The name of each board of health shall be the "Board of Health for the
(inserting the name of the health unit)
 Health Unit".

Name of board

53. A majority of the members of a board of health constitutes a quorum of the board.

Quorum

54. Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

Application of ss. 51-53, 55-58

55.—(1) A board of health shall pass by-laws respecting,

By-laws

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor.

(2) A board of health may pass by-laws respecting,

Idem

- (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and
- (b) any other matter necessary or advisable for the management of the affairs of the board of health.

56.—(1) A board of health shall hold its first meeting of each year not later than the 1st day of February.

First meeting

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

Chairman

57. A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it.

Minutes

58.—(1) A board of health shall keep or cause to be kept,

Financial records

- (a) books, records and accounts of its financial affairs;

- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

Annual
financial
statements

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.

Retention of
records

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations.

Certain
boards of
health in
Metropolitan
Toronto

59.—(1) With respect to the board of health for the health unit related to each municipality specified in subsection (2),

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) the council of the municipality shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

Muni-
cipalities
specified

(2) The municipalities referred to in subsection (1) are the following:

1. The Borough of Etobicoke.
2. The City of North York.
3. The Borough of Scarborough.
4. The City of Toronto.

60. Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.

Duty of
board of
health

61. Every board of health,

Medical
officer of
health

(a) shall appoint a full-time medical officer of health; and

(b) may appoint one or more associate medical officers of health,

of the board of health.

62. A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.

Use of title

63. No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

Eligibility for
appointment

(a) he is a physician;

(b) he possesses the qualifications and requirements prescribed by the regulations for the position; and

(c) the Minister approves the proposed appointment.

64.—(1) Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Retirement

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Extension

65.—(1) A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

Dismissal

- (a) the decision is carried by the vote of two-thirds of the members of the board; and
- (b) the Minister consents in writing to the dismissal.

Notice and attendance

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health,

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting.

Executive officer

66.—(1) The medical officer of health of a board of health is the executive officer of the board.

Direction of staff

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board.

Management and administration

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board.

Area of authority

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health.

Duties of associate M.O.H

67.—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health.

Where M.O.H. absent or unable to act

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health.

68.—(1) Where,Acting
M.O.H.

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Powers and
duties

69. The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Attendance
at meetings
of boards

70.—(1) Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Staff

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Qualifi-
cations

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

Public health
nurseR S.O. 1980,
c. 196

- (a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and
- (b) meets such additional qualifications and requirements as are prescribed by the regulations.

Expenses

71.—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

Municipal authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

Reports

72. Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.

Financial inspectors

73.—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.

Obstruction

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

Information

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires.

Access to records

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector.

Where Minister is of opinion that management or administration of affairs of board of health are inadequate

74.—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is

adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health.

Directions by Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Duty of board of health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action on behalf of board of health, etc.

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Action by board of health

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Right of access

Duration of directions (7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants **75.** The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of health units **76.**—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and liabilities (2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

Alteration of boundaries of health units (3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Order by Minister (4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

PART VII

ADMINISTRATION

Investigation re disease and mortality **77.**—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

Direction to investigate (2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario.

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of investigator
R.S.O. 1980, c. 411

78.—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper.

Public health laboratory centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction.

Direction by Minister

79.—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

Duty

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable.

Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.

Directions and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.

Certificate of appointment

80.—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Chief Medical Officer of Health

(2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.

Qualifications

Duty of Chief
M.O.H. re
occupational
and environ-
mental health

(3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.

Examinations
of records by
Chief
Medical
Officer of
Health

81.—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.

Copies

(2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.

Delegation

(3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.

Where board
of health not
providing
health
program or
service

82.—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.

Expenses

(2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

Where
situation of
risk to health

83. Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Powers of
Chief
Medical
Officer of
Health

84.—(1) For the purposes of sections 82 and 83, the Chief Medical Officer of Health,

- (a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and
- (b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,

(i) that the person has power to do under this Act,
or

(ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority and duty of person directed to act

(a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and

(b) the person shall carry out the direction as soon as practicable.

85.—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

86.—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Possession of premises for temporary isolation facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
 - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
 - (ii) is not likely to comply with the Minister's order under subsection (1), or
 - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

Execution of warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

Ex parte
application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located.

Termination
of use of
premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation.

Compen-
sation

R.S.O. 1980,
c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section.

Application
of R.S.O.
1980, c. 148

87. The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit,

Northern
Ontario
Public Health
Service

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

88.—(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

Health
services in
isolated
muni-
cipalities

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals

whose services may be employed by a board of health.

Idem (2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

Repeal of ss. 87, 88 **89.**—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Application of subs. (1) (2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

Agreement with organization **90.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

(a) the health programs and services that a board of health is required to provide under this Act and the regulations; and

(b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health.

Hearings **91.** The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.

Appointment of public health professionals **92.** The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.

Provincial analysts **93.** The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.

Protection from personal liability **94.**—(1) No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any

act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

PART VIII

REGULATIONS

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

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

Regulations
relating to
Part II

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them.

Regulations
relating to
Part III

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
 - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
 - (ii) requiring the installation and maintenance of safety equipment,
 - (iii) requiring the presence of lifeguards and other staff, and
 - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of

persons who are employed on or in food premises and requiring compliance therewith;

- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughterhouses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

Regulations
relating to
Part IV

(4) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;

- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI,

Regulations
relating to
Part VI

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;
- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
 - (i) the number of municipal members of the board,
 - (ii) by whom each of the municipal members of the board shall be appointed,
 - (iii) the area or place that each municipal member of the board is to represent,
 - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980, c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody,

keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,

- (i) the proceedings of boards of health,
- (ii) the text of by-laws and resolutions of boards of health,
- (iii) the financial and administrative affairs of boards of health,
- (iv) mandatory health programs and services,
- (v) other health programs and services,
- (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations
by Minister

96. The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of
regulations

97.—(1) A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption of
codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

Classes

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the

same type or with the same attributes, qualities or characteristics.

98. Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations.

Form, etc.,
of reports or
notices

PART IX

ENFORCEMENT

99.—(1) Any person who fails to obey an order made under this Act is guilty of an offence.

Offence,
orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence.

Offence,
reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence.

Offence,
sections of
Act

(4) Any person who contravenes a regulation is guilty of an offence.

Offence,
regulations

100.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is convicted of an offence under this Act,

Directors,
officers,
employees
and agents

(a) each director of the corporation; and

(b) each officer, employee 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 guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings to restrain contravention of order

101.—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings to prohibit continuation or repetition of contravention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of order as evidence

102.—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate as evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of compliance with order

103. A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Furnishing false information

104. No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Service

105.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to

the person to whom it is to be given, served or delivered at his last known address.

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service
deemed
made

PART X

TRANSITION AND REPEALS

106. Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health units
R.S.O. 1980,
c. 409

107. Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of
health
continued

108. The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board
member
continued in
office

109. The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical
officers of
health
continued in
office

110.—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws
continued

(2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Compliance

Repeals

111.—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

Idem

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION CENTRE
LICENSING ACT

Idem

(3) The following are repealed:

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-
ment

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

Short title

113. The short title of this Act is the *Health Protection and Promotion Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to revise the Mechanics' Lien Act

THE HON. R. MCMURTRY
Attorney General

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examine payroll accounts of an employer. The remedies for failure to provide information or access to information are made more effective (s. 39).

20. A right to cross-examine once on an affidavit verifying a lien claim is given to persons having an interest in the premises subject to the claim and to the contractor. This provision is designed to discourage claims for excessive amounts (s. 40).
21. Provision is made for the postponement of a lien claim to the interest of another. This will assist in continuing the flow of funds on a construction project (s. 43).
22. The provisions related to vacating the registration of a claim to lien have been clarified and are designed to avoid unnecessary delays in the flow of funds on a construction project (s. 44).
23. Defendants who do not file a statement of defence may have pleadings noted closed against them and, in that case, will be deemed to have admitted allegations of fact in the claim, be denied the opportunity to participate in the trial or other proceedings in respect of the claim and may have judgment given against them. The intent of this provision is to speed the resolution of lien actions (s. 56).
24. With consent of the court, a person may be added as a third party for the purpose of claiming contribution and indemnity. In appropriate circumstances this will avoid multiplicity of judicial proceedings (s. 58).
25. The Bill contains a provision for settlement meetings and provides for their binding effect (s. 63).
26. Although trust actions may not be joined with a lien action under the Bill, a person who believes he is in possession of trust funds may apply to the court for directions (s. 68).
27. The provisions regarding the appointment by the court of a trustee are expanded and clarified (s. 70).
28. The Bill provides a right to claim against a labour and materials payment bond to the beneficiaries of the bond (s. 71).
29. The holdbacks are secured by giving lien claimants priority to the extent of any deficiency in the holdback over building mortgages and mortgages registered subsequent to the commencement of the improvement (s. 80).
30. Section 52 of the *Mechanics' Lien Act*, which provides for liens for the repairers of personal property, is retained and the balance of the Act is repealed (s. 91).

BILL 139

1982

An Act to revise the Mechanics' Lien 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

1. "action" means an action under Part VIII;
2. "construction trade newspaper" means a newspaper having circulation generally throughout Ontario, that is published no less frequently than on all days except Saturdays and holidays, and in which calls for tender on construction contracts are customarily published, and that is primarily devoted to the publication of matters of concern to the construction industry;
3. "contract" means the contract between the owner and the contractor, and includes any amendment to that contract;
4. "contractor" means a person contracting with or employed directly by the owner or his agent to supply services or materials in respect of any improvement;
5. "court" means the Supreme Court of Ontario;
6. "Crown" includes a Crown agency to which the *Crown Agency Act* applies; R.S.O. 1980,
c. 106
7. "holdback" means the 10 per cent of the value of the services or materials supplied under a contract or sub-contract required to be withheld from payment by Part IV;
8. "improvement" means,
 - i. any alteration, addition or repair to, or

- ii. any construction, erection or installation on, any land, and includes the demolition or removal of any building, structure or works or part thereof, and "improved" has a corresponding meaning;
9. "interest in the premises" means an estate or interest of any nature, and includes a statutory right given or reserved to the Crown to enter any lands or premises belonging to any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any lands or premises;
 10. "land" includes any building, structure or works affixed to the land, or an appurtenance to any of them, but does not include the improvement;
 11. "lien claimant" means a person having a preserved or perfected lien;
 12. "materials" means every kind of movable property,
 - i. that becomes, or is intended to become, part of the improvement, or that is used directly in the making of the improvement, or that is used to facilitate directly the making of the improvement,
 - ii. that is equipment rented without an operator for use in the making of the improvement;
 13. "mortgage" includes a charge and "mortgagee" includes a chargee;
 14. "municipality" means a municipality as defined in the *Municipal Affairs Act* or a metropolitan, regional or district municipality, or a local board thereof;
 15. "owner" means any person, including the Crown, having an interest in a premises at whose request and,
 - i. upon whose credit, or
 - ii. on whose behalf, or
 - iii. with whose privity or consent, or
 - iv. for whose direct benefit,
 an improvement is made to the premises;

16. "payer" means the owner, contractor or subcontractor who is liable to pay for the materials or services supplied in respect of any improvement under a contract or subcontract;
17. "payment certifier" means an architect, engineer or any other person upon whose certificate payments are made under a contract or subcontract;
18. "person having a lien" includes both a lien claimant and a person with an unreserved lien;
19. "premises" includes,
 - i. the improvement,
 - ii. all materials supplied to the improvement, and
 - iii. the land occupied by the improvement, or enjoyed therewith, or the land upon or in respect of which the improvement was done or made;
20. "price" means the contract or subcontract price,
 - i. agreed upon between the parties, or
 - ii. where no specific price has been agreed upon between them, the actual value of the services or materials that have been supplied to the improvement under the contract or subcontract;
21. "services or materials" includes both services and materials;
22. "subcontract" means any agreement between the contractor and a subcontractor, or between two or more subcontractors, relating to the supply of services or materials to the improvement and includes any amendment to that agreement;
23. "subcontractor" means a person not contracting with or employed directly by the owner or his agent but who supplies services or materials to the improvement under an agreement with the contractor or under him with another subcontractor;
24. "supply of services" means any work done or service performed upon or in respect of an improvement, and includes,

- i. the rental of equipment with an operator, and
- ii. where the making of the planned improvement is not commenced, the supply of a design, plan, drawing or specification that in itself enhances the value of the owner's interest in the land,

and a corresponding expression has a corresponding meaning;

- 25. "wages" means the money earned by a worker for work done by time or as piece work, and includes all monetary supplementary benefits, whether provided for by statute, contract or collective bargaining agreement;
- 26. "worker" means a person employed for wages in any kind of labour;
- 27. "workers' trust fund" means any trust fund maintained in whole or in part on behalf of any worker on an improvement and into which any monetary supplementary benefit is payable as wages for work done by the worker in respect of the improvement;
- 28. "written notice of a lien" includes a lien claim and any written notice given by a lien claimant that,
 - i. identifies his payer and identifies the premises, and
 - ii. states that he has not been paid an amount that he is owed by his payer in respect of services and materials supplied by him to the improvement.

When
materials
supplied

(2) For the purposes of this Act, materials are supplied to an improvement when they are,

- (a) placed on the land on which the improvement is being made;
- (b) placed upon land designated by the owner or his agent that is in the immediate vicinity of the premises, but placing materials on the land so designated does not, of itself, make that land subject to a lien; or
- (c) in any event, incorporated into or used in making or facilitating directly the making of the improvement.

Idem

(3) A contractor or subcontractor to whom materials are supplied and who designates land under clause (2) (b) is deemed

to be the owner's agent for that purpose, unless the person supplying the materials has actual notice to the contrary.

2.—(1) For the purposes of this Act, a contract is substantially performed when the improvement to be made under that contract is, When contract substantially performed

- (a) ready for use or is being used for the purposes intended; and
- (b) capable of completion or, where there is a patent defect, correction, at a cost of not more than,
 - (i) 3 per cent of the first \$500,000 of the contract price,
 - (ii) 2 per cent of the next \$500,000 of the contract price, and
 - (iii) 1 per cent of the balance of the contract price.

(2) For the purposes of this Act, where the improvement or a substantial part thereof is ready for use or is being used for the purposes intended and the remainder of the improvement cannot be completed expeditiously for reasons beyond the control of the contractor or, where the owner and the contractor agree not to complete the improvement expeditiously, the price of the services or materials remaining to be supplied and required to complete the improvement shall be deducted from the contract price in determining substantial performance. Idem

PART I

GENERAL

3.—(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown but does not apply in respect of a contract as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, and to which that Act applies. Act binds Crown
R.S.O. 1980,
c. 290

(2) Section 7 of the *Proceedings Against the Crown Act* does not apply in respect of an action against the Crown under this Act. Non-application of
R.S.O. 1980,
c. 393, s. 7.

4. An agreement by any person who supplies services or materials to an improvement that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void. No waiver of rights

Contracts
to conform

5. Every contract or subcontract related to an improvement is deemed to be amended in so far as is necessary to be in conformity with this Act.

Minor
irregularities

6. No certificate, declaration or claim for lien is invalidated by reason only of a failure to comply strictly with subsection 32 (2) or (5), subsection 33 (1) or subsection 34 (5), unless in the opinion of the court a person has been prejudiced thereby, and then only to the extent of the prejudice suffered.

PART II

TRUST PROVISIONS

Owner's trust,
amounts
received for
financing a
trust

7.—(1) All amounts received by an owner, other than the Crown, or a municipality, that are to be used in the financing of the improvement, including any amount that is to be used in the payment of the purchase price of the land and the payment of prior encumbrances, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund for the benefit of the contractor, subcontractors and other persons who supply services or materials to the improvement.

Amounts
certified
as payable

(2) Where amounts become payable under a contract to a contractor by the owner on a certificate of a payment certifier, an amount that is equal to an amount so certified that is in the owner's hands or received by him at any time thereafter constitutes a trust fund for the benefit of the contractor, subcontractors and other persons who supply services or materials to the improvement.

Where
substantial
performance
certified

(3) Where the substantial performance of a contract has been certified, or has been declared by the court, an amount that represents the unpaid price of the substantially performed portion of the contract that is in the owner's hands or is received by him at any time thereafter constitutes a trust fund for the benefit of the contractor, subcontractors and other persons who supply services or materials to the improvement.

Obligations
as trustee

(4) The owner is the trustee of the trust fund created by subsection (1), (2) or (3), and he shall not appropriate or convert any part of a fund to his own use or to any use inconsistent with the trust until the contractor is paid all amounts related to the improvement owed to him by the owner.

Contractor's
and sub-
contractor's
trust,
amounts
received
a trust

8.—(1) All amounts,

(a) owing to a contractor or subcontractor, whether or not due or payable; or

(b) received by a contractor or subcontractor,

on account of the contract or subcontract price of an improvement constitute a trust fund for the benefit of the subcontractors and other persons who have supplied services or materials to the improvement.

(2) The contractor or subcontractor is the trustee of the trust fund created by subsection (1) and he shall not appropriate or convert any part of the fund to his own use or to any use inconsistent with the trust until all subcontractors and other persons who supply services or materials to the improvement are paid all amounts related to the improvement owed to them by him. Obligations as trustee

9.—(1) Where the owner's interest in a premises is sold by the owner prior to the time at which liens would have expired under Part V, the consideration received by that former owner as a result of the sale constitutes a trust property, and all liens that would have been enforceable against the premises but for the sale continue as a charge against the trust property, to the same extent as those liens would have been enforceable had the premises not been sold. Vendor's trust, amounts received a trust

(2) The former owner is the trustee of the trust created by subsection (1), and he shall not appropriate or convert any part of the trust property to his own use or to any use inconsistent with the trust until the contractor is paid all amounts owed to him related to the improvement. Obligations as trustee

10. Subject to Part IV (holdbacks), every payment by a trustee to a person he is liable to pay for services or materials supplied in relation to the improvement discharges the trust of the trustee making the payment and his obligations and liability as trustee to all beneficiaries of the trust to the extent of the payment made by him. Payment discharging trust

11.—(1) Subject to Part IV, a trustee who pays in whole or in part for the supply of services or materials to an improvement out of money that is not subject to a trust under this Part may retain from trust funds an amount equal to that paid by him without being in breach of the trust. Where trust funds may be reduced

(2) Subject to Part IV, where a trustee pays in whole or in part for the supply of services or materials to an improvement out of money that is loaned to him and that is not subject to a trust under this Part, trust funds may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and the application of trust money does not constitute a breach of the trust. Application of trust funds to discharge loan

Set-off
by trustee

12. Subject to Part IV, a trustee may, without being in breach of trust, retain from trust funds an amount that, as between himself and the person he is liable to pay under a contract or subcontract related to the improvement, is equal to the balance in the trustee's favour of outstanding debts, claims or damages, whether or not related to the improvement.

Liability for
breach of
trust by
corporation

13.—(1) In addition to the persons who are otherwise liable in an action for breach of trust under this Part,

(a) every director or officer of a corporation;

(b) every employee or agent of a corporation; and

(c) any person having effective control of a corporation,

who assents to, or acquiesces in, conduct that he knows or reasonably ought to know amounts to breach of trust by the corporation is liable for the breach of trust.

Effective
control of
corporation

(2) The question of whether a person has effective control of a corporation is one of fact and in determining this the court may disregard the form of any transaction and the separate corporate existence of any participant.

Joint and
several
liability

(3) Where more than one person is found liable for a particular breach of trust under this Part, those persons are jointly and severally liable.

Contribution

(4) A person who is found liable, or who has admitted liability, for a particular breach of a trust under this Part is entitled to recover contribution from any other person also liable for the breach in such amount as will result in equal contribution by all parties liable for the breach unless the court considers such apportionment would not be fair and, in that case, the court may direct such contribution or indemnity as the court considers appropriate in the circumstances.

PART III

THE LIEN

Creation
of lien

14.—(1) A person who supplies services or materials to an improvement for an owner, contractor or subcontractor, has a lien upon the interest of the owner in the premises improved for the price of those services or materials.

No lien
for interest

(2) No person is entitled to a lien for any interest on the amount owed to him in respect of the services or materials that

have been supplied by him, but nothing in this subsection affects any right that he may otherwise have to recover that interest.

15. A person's lien arises and takes effect when he first supplies his services or materials to the improvement. When lien arises

16.—(1) A lien does not attach to the interest of the Crown in a premises. Interest of Crown

(2) Where an improvement is made to a premises in which the Crown has an interest, but the Crown is not an owner within the meaning of this Act, the lien may attach to the interest of any other person in that premises. Interest of person other than Crown

(3) Where the Crown is the owner of a premises within the meaning of this Act, or where the premises is, Where lien does not attach to premises

- (a) a public street or highway owned by a municipality; or
- (b) a railway right-of-way,

the lien does not attach to the premises but constitutes a charge as provided in section 21, and the provisions of this Act shall have effect without requiring the registration of a claim for lien against the premises.

17.—(1) The lien of a person is limited to the amount owing to him in relation to the improvement and, subject to Part IV (holdbacks), it is further limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien. Limitation on value of lien

(2) Subject to Part IV, the total value of the liens of all members of a class, as defined in section 81, is limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials made by the members of the class. Idem

(3) Subject to Part IV, in determining the amount of a lien under subsection (1) or (2), there may be taken into account the amount that is, as between a payer and the person he is liable to pay, the balance in the payer's favour of all outstanding debts, claims or damages, whether or not related to the improvement. Set-off

(4) Despite subsection (1), where land is dedicated to a municipality as a public street or highway and an improvement is made to the land at the written request of, or under an agree- Public highway, liability of municipality re

ment with, the municipality, but not at its expense, the municipality shall nevertheless, on default of payment by the proper payer, be liable to the value of the holdbacks under Part IV that would have been required were the improvement made at the expense of the municipality, and the procedure for making a claim under this subsection shall be the same as for enforcing a claim for lien against a municipality in respect of a public street or highway.

Joint or
common
interests

18. Where the interest of the owner in the premises is held jointly or in common with another person who knew or ought reasonably to have known of the making of the improvement, the joint or common interest in the premises of that person is also subject to the lien unless the contractor receives actual notice, before the supply of services or materials to the improvement is commenced, that the person having the joint or common interest assumes no responsibility for the improvement being made.

Where owner's
interest
leasehold

19.—(1) Where the interest of the owner to which the lien attaches is leasehold, the interest of the landlord shall also be subject to the lien to the same extent as the interest of the owner if the contractor serves the landlord with written notice of the improvement to be made, unless the landlord, within fifteen days of receiving the notice from the contractor, serves the contractor with written notice that the landlord assumes no responsibility for the improvement to be made.

Forfeiture
or termination
of lease,
effect of

(2) No forfeiture of a lease to, or termination of a lease by, a landlord, except for non-payment of rent, deprives any person having a lien against the leasehold of the benefit of his lien.

Notice to
lien
claimants

(3) Where a landlord intends to enforce forfeiture or terminate a lease of the premises because of non-payment of rent, and there is a claim for lien registered against the premises in the proper land registry office, the landlord shall give notice in writing of his intention to enforce forfeiture or terminate the lease and of the amount of the unpaid rent to each person who has registered a claim for lien against the premises.

Payment
of unpaid
rent

(4) A person receiving notice under subsection (3) may, within ten days thereafter, pay to the landlord the amount of the unpaid rent, and the amount so paid may be added by that person to his claim for lien.

General
lien

20. Where an owner enters into a single contract for improvements on more than one premises owned by him, any person supplying services or materials under that contract, or under a subcontract under that contract, may choose to have his lien follow the form of the contract and be a general lien against each of those premises for the price of all services and materials he supplied to all the premises.

21. The lien of a person is a charge upon the holdbacks required to be retained by Part IV, and subject to subsection 17 (3), any additional amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien. Lien a charge

PART IV

HOLDBACKS

22.—(1) Each payer upon a contract or subcontract under which a lien may arise shall retain a holdback equal to 10 per cent of the price of the services or materials as they are actually supplied under the contract or subcontract until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court). Basic holdback

(2) Where the contract has been certified or declared to be substantially performed but services or materials remain to be supplied to complete the contract, the payer upon the contract, or a subcontract, under which a lien may arise shall retain, from the date certified or declared to be the date of substantial performance of the contract, a separate holdback equal to 10 per cent of the price of the remaining services or materials as they are actually supplied under the contract or subcontract, until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44. Separate holdback for finishing work

(3) The obligation to retain the holdbacks under subsections (1) and (2) applies irrespective of whether the contract or subcontract provides for partial payments or payment on completion. When obligation to retain applies

23.—(1) An owner is personally liable to those lien claimants who have valid liens against his interest in the premises to the extent of the holdbacks that he is required to retain under this Part. Personal liability of owner

(2) The personal liability of an owner under subsection (1) may only be determined in an action under this Act. How determined

24.—(1) A payer acting in good faith may, without jeopardy, make payments on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract unless, prior to making payment, the payer has received written notice of a lien. Payments that may be made

Idem

(2) Where a payer has received written notice of a lien and has retained, in addition to the holdbacks required by this Part, an amount sufficient to satisfy the lien, the payer acting in good faith may, without jeopardy, make payment on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract, less the amount retained.

Payment where subcontract certified complete

25. Where a subcontract has been certified complete under section 33, each payer upon the contract and any subcontract may, without jeopardy, make payment reducing the holdbacks required by this Part to the extent of the amount of holdback he has retained in respect of the completed subcontract, where all liens in respect of the completed subcontract have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

Payment of basic holdback

26. Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (1) (basic holdback), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Payment of holdback for finishing work

27. Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (2) (holdback for finishing work), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Direct payment to person having lien

28. Where an owner, contractor or subcontractor makes a payment without obligation to do so to any person having a lien for or on account of any amount owing to that person for services or materials supplied to the improvement and gives written notice of the payment or his intention to pay to the proper payer of that person, the payment shall be deemed to be a payment by the owner, contractor or subcontractor to the proper payer of that person, but no such payment reduces the amount of the holdback required to be retained under this Part or reduces the amount that must be retained in response to a written notice of lien given by a person other than the person to whom payment is made.

Discharge, extent of

29. Payments made in accordance with this Part operate as a discharge of the lien to the extent of the amount paid.

30. Where the contractor or a subcontractor defaults in the performance of his contract or subcontract, a holdback shall not be applied by any payer toward obtaining services or materials in substitution for those that were to have been supplied by the person in default, nor in payment or satisfaction of any claim against the person in default, until all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

How holdback
not to be
applied

PART V

EXPIRY, PRESERVATION AND PERFECTION OF LIENS

31.—(1) Unless preserved under section 34, the liens arising from the supply of services or materials to an improvement expire as provided in this section.

Expiry
of liens

(2) Subject to subsection (4), the lien of a contractor,

Contractor's
liens

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published as provided in section 32, and

(ii) the date the contract is completed or abandoned; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified to be the date of substantial performance, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date the contract is completed, and

(ii) the date the contract is abandoned.

(3) Subject to subsection (4), the lien of any other person,

Liens of
other persons

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of

the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earliest of,

- (i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published, as provided in section 32, and
 - (ii) the date on which he last supplies services or materials to the improvement, and
 - (iii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under that subcontract; and
- (b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,
- (i) the date on which he last supplies services or materials to the improvement, and
 - (ii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under that subcontract.

Separate
liens when
ongoing
supply

(4) Where a person has supplied services or materials to an improvement on or before the day certified or declared to be the date of the substantial performance of the contract and has also supplied, or is to supply, services or materials after that date, his lien in respect of the services or materials supplied on or before the date of substantial performance expires without affecting any lien that he may have for the supply of services or materials after that date.

Declaration
of last supply

(5) Where a person who has supplied services or materials under a contract or subcontract makes a declaration in the prescribed form declaring,

- (a) the date on which he last supplied services or materials under that contract or subcontract; and
- (b) that he will not supply any further services or materials under that contract or subcontract,

then the facts so stated shall be deemed to be true against the person making the declaration.

32.—(1) The following rules govern the certification and declaration of the substantial performance of a contract:

Rules governing certification or declaration of substantial performance

1. On the application of the contractor, the payment certifier, or if there is no payment certifier, the owner and the contractor jointly shall determine whether a contract has been substantially performed in accordance with section 2, and where he or they so determine, shall certify the substantial performance of the contract by signing a certificate in the prescribed form.
2. The payment certifier or the owner and the contractor jointly, as the case may be, shall set out in the certificate the date on which the contract was substantially performed.
3. The date set out in the certificate as the date on which the contract was substantially performed is deemed for the purpose of this Act to be the date on which that event occurred.
4. Where the payment certifier certifies the substantial performance of a contract he shall within seven calendar days of the day the certificate is signed give or send a copy of the certificate to the owner and to the contractor.
5. The contractor shall publish a copy of the certificate once in a construction trade newspaper.
6. Where the contractor does not publish a copy of the certificate within seven days of receiving a copy of the certificate signed by the payment certifier or, where there is no payment certifier, signed by the owner, any person may publish a copy of the certificate.
7. Where there is a failure, or refusal to certify substantial performance of the contract within a reasonable time, any person may apply to the court, and the court, upon being satisfied that the contract is substantially performed, and upon such terms as to costs or otherwise as it considers fit, may declare that the contract has been substantially performed, and the declaration has the same force and effect as a certificate of substantial performance of the contract.

8. Unless the court otherwise orders, the day the declaration is made shall be deemed to be the day the contract was substantially performed.
9. The person who applied to the court shall publish a copy of the declaration of substantial performance once in a construction trade newspaper.
10. For the purposes of this Part, a certificate or declaration of the substantial performance of a contract has no effect until a copy of the certificate or declaration is published.

Contents of
certificate

(2) Every certificate or declaration made or given under this section shall contain,

- (a) the name and address for service of the owner and of the contractor;
- (b) the name and address of the payment certifier, where there is one;
- (c) a short description of the improvement;
- (d) the date on which the contract was substantially performed;
- (e) where the lien attaches to the premises, a concise description containing a reference to lot and plan or instrument registration number sufficient to identify the premises; and
- (f) the street address, if any, of the premises.

Liability
for refusal
to certify

(3) Any person who is required by this section to make a determination of the substantial performance of a contract, and who after receiving an application fails or refuses within a reasonable time to certify the substantial performance of the contract even though there is no reasonable doubt that the contract has, in fact, been substantially performed is liable to anyone who suffers damages as a result.

Liability
for failure
to furnish
copy of
certificate

(4) A payment certifier who fails to comply with paragraph 4 of subsection 32 (1) is liable to anyone who suffers damage as a result.

Manner of
publication

(5) A construction trade newspaper shall publish copies of certificates or declarations of substantial performance in the prescribed form and manner.

33.—(1) Upon the request of the contractor, the payment certifier on the contract, or the owner and the contractor jointly, may determine whether a subcontract has been completed, and where he or they so determine, he or they may certify the completion of the subcontract in the prescribed form. Certificate re subcontract

(2) Where a subcontract is certified to be completed, the subcontract shall be deemed to have been completed on the date of certification. Date subcontract deemed completed

(3) If services or materials are supplied to the improvement under a subcontract after the date the subcontract is certified to be completed, those services or materials shall be deemed to have been last supplied on the date of certification. Services or materials supplied after subcontract certified completed

(4) Within seven days of the date the subcontract is certified to be completed, the payment certifier shall give or send a copy of the certificate, Copy of certificate

(a) to the subcontractor whose subcontract has been certified as complete; and

(b) to the owner and the contractor.

34.—(1) A lien may be preserved during the supplying of services or materials or at any time before it expires, How lien preserved

(a) where the lien attached to premises by the registration in the proper land registry office of a claim for lien on the title of the premises in accordance with this Part; and

(b) where the lien does not attach to premises, by giving to the owner a copy of the claim for lien together with the affidavit of verification required by subsection (6).

(2) Where a claim for lien is in respect of a public street or highway owned by a municipality, the copy of the claim for lien and affidavit shall be given to the clerk of the municipality. Public highway

(3) Where the owner of the premises is the Crown, the copy of the claim for lien and affidavit shall be given to the office prescribed by regulation, or where no office has been prescribed, to the ministry or Crown agency for whom the improvement is made. Premises owned by Crown

(4) Where the premises is a railway right-of-way, the copy of the claim for lien and affidavit shall be given to the manager or any person apparently in charge of any office of the railway in Ontario. Railway right-of-way

(5) Every claim for lien shall set out, Contents of claim for lien

- (a) the name and address for service of the person claiming the lien and the name and address of the owner of the premises and of the person for whom the services or materials were supplied and the time within which those services or materials were supplied;
- (b) a short description of the services or materials that were supplied;
- (c) the contract price or subcontract price;
- (d) the amount claimed in respect of services or materials that have been supplied; and
- (e) a description of the premises,
 - (i) where the lien attaches to the premises, sufficient for registration under the *Land Titles Act* or the *Registry Act*, as the case may be, or
 - (ii) where the lien does not attach to the premises, being the address or other identification of the location of the premises.

R.S.O. 1980,
cc. 230, 445

Affidavit of
verification

(6) A claim for lien shall be certified in duplicate by an affidavit of the person claiming the lien, including a trustee of the workers' trust fund where subsection 87 (2) applies, or of an agent or assignee of the claimant who has informed himself of the facts set out in the claim, and the affidavit of the agent or assignee shall state that he believes those facts to be true.

Preservation
of general
lien

(7) Subject to subsection 44 (4) (apportionment), a general lien shall be preserved against each of the premises that the person having the lien desires the lien to continue to apply against, and the claim against each premises may be for the price of services or materials that have been supplied to all the premises.

Who may join
in claim

(8) Any number of persons having liens upon the same premises may unite in a claim for lien, but where more than one lien is included in one claim, each person's lien shall be verified by affidavit as required by subsection (6).

Liability for
exaggerated
claim, etc.

35. In addition to any other ground on which he may be liable, any person who preserves a claim for lien or who gives written notice of a lien,

- (a) for an amount which he knows or ought to know is grossly in excess of the amount which he is owed; or
- (b) where he knows or ought to know that he does not have a lien,

is liable to any person who suffers damage as a result.

What liens
may be
perfected

36.—(1) A lien may not be perfected unless it is preserved.

(2) A lien that has been preserved expires unless it is perfected prior to the end of the forty-five-day period next following the last day, under section 31, on which the lien could have been preserved.

Expiry of
preserved
lien

(3) A lien claimant perfects his preserved lien,

How lien
perfected

- (a) where the lien attaches to the premises, when he commences an action to enforce his lien and, except where an order to vacate the registration of his lien is made, he registers a certificate of action in the prescribed form on the title of the premises; or
- (b) where the lien does not attach to the premises, when he commences an action to enforce his lien.

(4) A preserved lien becomes perfected by sheltering under a lien perfected by another lien claimant in respect of the same premises in accordance with the following rules:

Rules re
sheltering

1. The preserved lien of a lien claimant is perfected by sheltering under the perfected lien of another lien claimant in respect of the same premises where,
 - i. the lien of that other lien claimant was a subsisting perfected lien at the time when the lien of the lien claimant was preserved, or
 - ii. the lien of that other lien claimant is perfected in accordance with clause (3) (a) or (b) between the time when the lien of the lien claimant was preserved and the time that the lien of the lien claimant would have expired under subsection (2).
2. The validity of the perfection of a sheltered lien does not depend upon the validity, proper preservation or perfection of the lien under which it is sheltered.
3. A sheltered claim for lien is perfected only as to the defendants and the nature of the relief claimed in the statement of claim under which it is sheltered.
4. Upon notice by a defendant named in a statement of claim, any lien claimant whose lien is sheltered under that statement of claim shall provide the defendant with further particulars of his claim or of any fact alleged in his claim for lien.

General
lien

(5) Subject to subsection 44 (4) (apportionment), a preserved general lien that attaches to the premises shall be perfected against each premises to which the person having the lien desires the lien to continue to apply.

Expiry of
perfected
lien

37.—(1) A perfected lien expires where,

- (a) no appointment is made under section 62 for the trial of an action in which that lien may be realized; or
- (b) an action in which that lien may be realized is not set down for trial,

within two years of the date of the commencement of the action which perfected that lien.

Application
under s. 46

(2) Where a lien has expired under subsection (1), an application may be made under section 46.

Saving other
rights

38. The expiration of a lien under this Act shall not affect any other legal or equitable right or remedy otherwise available to the person whose lien has expired.

PART VI

RIGHT TO INFORMATION

Right to
information;
from owner
or contractor

39.—(1) Any person having a lien or who is the beneficiary of a trust under Part II may, at any time, by written request, require the owner, or the contractor, to provide him within a reasonable time, not to exceed twenty-one days, with,

- (a) the names of the parties to the contract;
- (b) the contract price;
- (c) the state of accounts between the owner and the contractor; and
- (d) a copy of any labour and material payment bond in respect of the contract posted by the contractor with the owner.

from
mortgagee
or unpaid
vendor

(2) Any person having a lien or any beneficiary of a trust under Part II may, at any time, by written request, require a mortgagee or unpaid vendor to provide him within a reasonable time, not to exceed twenty-one days, with,

- (a) sufficient details of any mortgage on the premises to enable the person who requests the information to

determine whether the mortgage was taken by the mortgagee for the purposes of financing the making of the improvement;

- (b) a statement showing the amount advanced under the mortgage, the dates of those advances, and any arrears in payment including any arrears in the payment of interest; or
- (c) a statement showing the amount secured under the agreement of purchase and any arrears in payment including any arrears in the payment of interest.

(3) The trustee of a workers' trust fund may at any time by written request require any contractor or subcontractor to permit him, within a reasonable time after making the request, not to exceed twenty-one days, to inspect the payroll records of all workers who are beneficiaries of the fund, and who have supplied labour to the making of the improvement, and who are employed by the contractor or the subcontractor.

by trustee
or workers'
trust fund

(4) A contractor shall, upon written request made to him by any person, within a reasonable time furnish in writing to the person the date of publication and the name of the construction trade newspaper in which a copy of a certificate of substantial performance has been published under subsection 32 (1).

respecting
publication
of certificate
of substantial
performance

(5) Where a person, who is required under subsection (1), (2), (3) or (4) to provide information or access to information, does not provide the information or access to information as required or knowingly or negligently mis-states that information, he is liable to the person who made the request for any damages sustained by reason thereof.

Liability
for failure
to provide
information

(6) Upon motion, the court may at any time, whether or not an action has been commenced, order a person to comply with a request that has been made to him under this section and when making the order, the court may make any order as to costs as it considers appropriate in the circumstances, including an order for the payment of costs on a solicitor-and-client basis.

Order by
court to
comply with
request

40.—(1) Any person who has verified a claim for lien that has been preserved is liable to be cross-examined without an order on the claim for lien at any time, irrespective of whether an action has been commenced.

Cross-
examination
on claim
for lien

(2) There shall be only one examination under subsection (1), but the contractor and every person named in the claim for lien who has an interest in the premises are entitled to participate therein.

Who may
participate

Notice

(3) Any person intending to examine a person under subsection (1) shall give at least seven days notice of the examination specifying the time and place for the examination to,

- (a) the person to be examined or his solicitor;
- (b) every other person named in the claim for lien as having an interest in the premises; and
- (c) the contractor.

Application of rules of practice

(4) The Supreme Court Rules of Practice pertaining to examinations apply, with necessary modifications, to cross-examinations under this section.

PART VII

DISCHARGE OF PRESERVED OR PERFECTED LIENS

Discharge of lien claim by release

41. A preserved or perfected lien may be discharged,

- (a) where the lien attaches to the premises, by the registration of a release in the prescribed form on the title to the premises and the release shall, except where the lien claimant is a corporation, be supported by an affidavit of execution; or
- (b) where the lien does not attach to the premises, by giving a release in the prescribed form to the owner, in the manner set out in section 34 for the giving of copies of the claim for lien.

Discharge of general lien

42. A preserved or perfected general lien may be discharged against any one or more of the premises that are subject to it, without affecting its application to any other premises to which it applies, by the registration of a release in the prescribed form on the title to the premises released.

Postponement of lien claim

43. A preserved or perfected lien may be postponed in favour of the interest of another person in the premises by the registration on the title to the premises of a notice of postponement in the prescribed form, and in that case, subsection 80 (8) applies (priorities in event of postponement).

Vacating lien by payment into court; without notice

44.—(1) Upon the motion of any person, without notice to any other person, the court shall make an order vacating,

- (a) where the lien attaches to the premises, the registration of a preserved or perfected lien and any certificate of action in respect of that lien; or

- (b) where the lien does not attach to the premises, the claim for lien,

where the person bringing the motion pays into court, or posts security in an amount equal to, the total of,

- (c) the full amount claimed as owing in the claim for lien; and
 (d) the lesser of \$50,000 or 25 per cent of the amount described in clause (c), as security for costs.

(2) Upon the motion of any person, the court may make an order vacating the registration of a preserved or perfected lien, and any certificate of action in respect of that lien, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy that lien.

on payment in
of reasonable
amount

(3) Where the lien does not attach to the premises, the court may make an order, upon the motion of any person, vacating a claim for lien served upon the owner, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy the lien.

Where lien
does not
attach to
premises

(4) Where a motion is made to vacate the registration of a general lien against one or more of the premises subject to that lien, the court may apportion the general lien between the premises in respect of which the application is made and all other premises that are subject to the lien.

Where
general lien

(5) Where an amount has been paid into court or security has been posted with the court under this section, the court, upon notice to such persons as it may require, may order where it is appropriate to do so,

Reduction
of amount
paid into
court

- (a) the reduction of the amount paid into court, and the payment of any part of the amount paid into court to the person entitled; or
 (b) the reduction of the amount of security posted with the court, and the delivery up of the security posted with the court for cancellation or substitution, as the case may be.

(6) Where an order is made under clause (1) (a) or subsection (2), the lien ceases to attach to the premises and becomes instead a charge upon the amount paid into court or security posted.

Lien a
charge upon
amount paid
into court

- Idem (7) Where an order is made under clause (1) (b) or subsection (3), the lien ceases to attach to the holdbacks and other amounts subject to a charge under section 21 and becomes instead a charge upon the amount paid into court or security posted.
- Consolidation of motions (8) Where more than one motion is made under subsection (1), (2) or (3) for the payment into court or posting of security to obtain an order vacating the registration of one or more preserved or perfected liens arising from the same improvement, the court may consolidate the motions and require that the amount paid into court or security posted be adequate to satisfy all the liens that are the subject of each of the motions, or make any other order that it considers appropriate.
- Rules (9) Where an order is made under subsection (1), (2) or (3), the following rules apply:
1. The lien claimant whose lien was the subject of the order may proceed with an action to enforce his claim against the amount paid into court or security posted in accordance with the procedures set out in Part VIII, but no certificate of action shall be registered against the premises.
 2. The amount paid into court or security posted is subject to the claims of all persons having a lien to the same extent as if the amount paid into court or security posted was realized by the sale of the premises in an action to enforce the lien.
 3. Where any amount is realized in a lien action by the sale of the premises or otherwise, it shall be pooled into a common fund with the amount paid into court or security posted under this section, and shall be distributed among all lien claimants in accordance with the priorities provided for in section 82.
- Declaration by court that preserved lien has expired **45.**—(1) Where a lien that attaches to the premises is not perfected within the time allowed for doing so under section 36, the court upon,
- (a) the motion of any person without notice to any other person;
 - (b) proof that the lien has not been perfected; and
 - (c) production of,
 - (i) a certificate of search under the *Land Titles Act*,
or

(ii) a registrar's abstract under the *Registry Act*, R.S.O. 1980, c. 445

together with a certified copy of the claim for lien,

shall declare that the lien has expired and order that the registration of the claim for lien be vacated.

(2) Where the court is satisfied that a preserved lien that does not attach to the premises has not been perfected within the time allowed for doing so under section 36, the court upon the motion of any person without notice to any other person shall declare that the lien has expired. ^{Idem}

(3) Where a declaration is made under subsection (1) or (2), the court shall order that, ^{Order returning amount paid into court or cancelling security}

(a) any amount that has been paid into court under section 44 in respect of that lien be returned to the person who paid the amount into court; and

(b) any security that has been posted under section 44 in respect of that lien be cancelled.

46.—(1) Where a perfected lien that attaches to the premises has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to enforce that lien and vacating the certificate of action in respect of that action. ^{Order dismissing action, etc.}

(2) Where a perfected lien that does not attach to the premises has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to realize upon that lien. ^{Idem}

(3) A motion under subsection (1) or (2) may be brought without notice, but no order as to costs in the action may be made upon the motion unless notice of that motion was given to the person against whom the order for costs is sought. ^{Costs}

(4) Where an action is dismissed under subsection (1) or (2), the court shall order that, ^{Order returning money paid into court or cancelling security}

(a) any amount that has been paid into court under section 44 in respect of that action be returned to the person who paid the amount into court; and

(b) any security that has been posted under section 44 in respect of that action be cancelled.

General
power to
discharge lien

47.—(1) Upon motion, the court may,

(a) order the discharge of a lien;

(b) order that the registration of,

(i) a claim for lien, or

(ii) a certificate of action,

or both, be vacated;

(c) declare, where written notice of a lien has been given, that the lien has expired, or that the written notice of the lien shall no longer bind the person to whom it was given; or

(d) dismiss an action,

upon any proper ground and subject to any terms and conditions that the court considers appropriate in the circumstances.

Direction
by court

(2) Where a certificate of action is vacated under subsection (1), and there remain liens which may be enforced in the action to which that certificate relates, the court shall give any directions that are necessary in the circumstances in respect of the continuation of that action.

Discharge
irrevocable

48. A discharge of a lien under this Part is irrevocable and the discharged lien cannot be revived, but no discharge affects the right of the person whose lien was discharged to claim a lien in respect of services or materials supplied by him subsequent to the registration of the claim for lien relating to the discharged lien.

Registration

49. Where the lien attaches to the premises, an order declaring that a lien has expired, or discharging a lien, or vacating the registration of a claim for lien or a certificate of action, may be registered by registering on the title to the premises a certified copy of the order that includes a description of the premises sufficient for registration under the *Registry Act* or the *Land Titles Act*, as the case may be, and a reference to the registration number of every preserved or perfected claim for lien and certificate of action thereby affected.

R.S.O. 1980,
cc. 445, 230

PART VIII

JURISDICTION AND PROCEDURE

Lien claimant
enforceable
in action

50.—(1) A lien claim is enforceable in an action in the Supreme Court in accordance with the procedure set out in this Part.

(2) A trust claim shall not be joined with a lien claim but may be brought in any court of competent jurisdiction.

Trust claim and lien claim not to be joined

(3) Any number of lien claimants whose liens are in respect of the same owner and the same premises may join in the same action.

Joinder in action

51.—(1) Where the premises or a part thereof are situate in the Judicial District of York, an action shall be tried by a judge of the court.

Where premises situate in Judicial District of York

(2) Where the premises are situate outside the Judicial District of York, an action shall be tried,

Where premises situate outside Judicial District of York

(a) by a local judge of the court having jurisdiction in the county or district in which the premises or a part thereof are situate; or

(b) where upon motion the local judge so orders, by a judge of the court at the regular sittings of the court for the trial of actions in the county or district in which the premises or a part thereof are situate.

(3) Where the premises or a part thereof are situate in more than one county or district, an action may be tried by any judge or local judge who has jurisdiction under subsection (1) or (2) in any of the counties or districts in which the premises are situate.

Where premises situate in more than one county

52.—(1) Except as provided in subsection (2),

Powers of master, etc.

(a) the master, where the premises or a part thereof are situate in the Judicial District of York;

(b) a local master appointed for the county or district in which the premises or a part thereof are situate, where the premises are situate outside the Judicial District of York;

(c) a local judge, where the local judge has ordered that the action be tried by a judge of the court under clause 51 (2) (b),

has jurisdiction to hear and dispose of any motion under this Act, including a motion brought prior to the commencement of an action, and all motions relating to the conduct of an action or reference under this Act.

(2) A master or appointed local master shall not hear or dispose of a motion,

What matters not to be dealt with by master

(a) for the trial of the action by a judge under clause 51 (2) (b);

- (b) for the reference of an action to a master or appointed local master for trial;
- (c) that is an originating application; or
- (d) in respect of an appeal.

Further powers of master

(3) In addition to his jurisdiction under subsection (1), a master or appointed local master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

Court to dispose completely of action

53. The court, whether the action is being tried by a judge or local judge, or by a master or an appointed local master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim, and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and
- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

Where exclusive jurisdiction not acquired

54. A judge, local judge, master or an appointed local master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of his appointing the time and place for the trial of action or reference, or for the holding of a settlement meeting.

How action commenced

55.—(1) An action shall be commenced by filing a statement of claim in the office of the registrar or local registrar of the court in the county or district in which the premises or a part thereof are situate.

Service of statement of claim

(2) The statement of claim shall be served within ninety days after it is filed, but the court may, upon a motion made before or after the expiration of that period of time, extend the time for service.

(3) A cross-claim or counterclaim by any person shall accompany his statement of defence, but on motion the court may grant leave to deliver a cross-claim or counterclaim after this time where it is appropriate to do so, and where leave is granted, the court may,

- (a) make any order as to costs that it considers appropriate; and
- (b) give directions as to the conduct of the action.

56.—(1) The time for delivering a statement of defence to a lien claim, cross-claim, counterclaim or third party claim shall be the same as for entering an appearance under the Supreme Court Rules of Practice.

(2) Where a person named as a defendant in a statement of claim, counterclaim, cross-claim or third party claim defaults in the delivery of a statement of defence in respect of that claim, pleadings may be noted closed against him in respect of that claim.

(3) Where pleadings have been noted closed against a defendant under subsection (2), he shall not be permitted to contest the claim of the person who named him as a defendant, or to file a statement of defence, except with leave of the court, to be given only where the court is satisfied that there is evidence to support a defence, and where leave is granted, the court,

- (a) may make any order as to costs that it considers appropriate; and
- (b) may give directions as to the conduct of the action.

(4) Except where leave has been granted under subsection (3), a defendant against whom pleadings have been noted closed under subsection (1) shall be deemed to admit all allegations of fact made in the statement of claim, counterclaim, cross-claim or third party claim, as the case may be, and shall not be entitled to notice of or to participate in the trial of the action or any proceeding in respect of the action and judgment may be given against him.

(5) Every statement of claim, cross-claim, counterclaim or third party claim shall include the following warning to defendants:

“WARNING: If you wish to defend against this claim, you are required to deliver a statement of defence within the time allowed under the Supreme Court Rules of Practice for enter-

ing an appearance. Should you fail to deliver a statement of defence as required, pleadings may be noted closed against you, and you shall be deemed to admit all allegations of fact contained in this claim, and you shall not be entitled to notice of or to participate in the trial or any proceeding in respect of this claim and judgment may be given against you.”

Joinder
of claims

57.—(1) A plaintiff in an action may join with his lien claim a claim for breach of his contract or subcontract.

Counter-
claims and
cross-claims

(2) A defendant in an action may,

- (a) counterclaim against the person who named him as a defendant in respect of any claim that he may be entitled to make against that person, whether or not that claim is related to the making of the improvement;
- (b) cross-claim against a co-defendant in respect of any claim that he may be entitled to make against that person related to the making of the improvement.

Rules re
third party
proceedings

58. The following rules govern third party proceedings:

1. Subject to paragraph 2, a defendant named in a statement of claim, cross-claim, counterclaim or third party claim may join a person who is not a party to the action as a third party for the purpose of claiming contribution or indemnity from the third party in respect of that claim.
2. A person may only be joined as a third party with leave of the court upon a motion made with notice to the owner and all persons having subsisting preserved or perfected liens at the time of the motion, but such leave shall not be given unless the court is satisfied that the trial of the third party claim will not,
 - i. unduly prejudice the ability of the third party or of any lien claimant or other defendant to prosecute his claim or conduct his defence, or
 - ii. unduly delay or complicate the resolution of the lien action.
3. The court may give such directions as it considers appropriate in the circumstances in respect of the conduct of third party proceedings.

Parties

59.—(1) The person serving the notice of trial and all persons served with notice of trial are parties to the action.

(2) Subject to section 56, the court may at any time add or join any person as a party to the action. Adding parties

60.—(1) On motion made after the delivery of all statements of defence, or the statements of defence to all cross-claims, counterclaims, or third party claims, if any, or the time for their delivery has expired, Reference to master, etc.

(a) a judge may refer to a master; or

(b) a local judge may refer to a local master appointed for the county or district in which the premises or part thereof are situate,

the whole action for trial under section 71 of the *Judicature Act*. R.S.O. 1980, c. 223

(2) At the trial,

Idem

(a) a judge may direct a reference to a master; or

(b) a local judge may direct a reference to a local master appointed for the county or district in which the premises or part thereof are situate,

under section 70 or 71 of the *Judicature Act*.

(3) Where under subsection (1), the action has been referred to the master or local master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge or the local judge of the court who directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

(4) Where no motion is made under subsection (3), or where the motion is refused, the person who subsequently became a party to the action is bound by the judgment directing the reference as if he had been a party to the action at the time the reference was directed. Effect on subsequent party to action

61.—(1) The court may at any time make an order awarding carriage of the action to any person who has a perfected lien. Carriage of action

(2) Where more than one action is brought to enforce liens in respect of the same improvement, the court may, Consolidation of actions

(a) consolidate all the actions into one action; and

(b) award carriage of the action to any person who has a perfected lien.

Application to fix date for trial or settlement meeting

62.—(1) Any party may make a motion to the court without notice to any other person at any time after,

- (a) the delivery of the statements of defence, or the statements of defence to all cross-claims, counterclaims or third party claims, if any, where the plaintiff's claim is disputed; or
- (b) the expiry of the time for the delivery of these statements of defence in all other cases,

to have a day fixed for the trial of the action, or for the holding of a settlement meeting under section 63, or both.

Notice of settlement meeting

(2) Where the court orders the holding of a settlement meeting, then at least ten days before the date appointed for the holding of the meeting, the party who obtained the appointment shall serve a notice of settlement meeting upon any person who was, on the eleventh clear day before the date appointed,

- (a) subject to section 56 (default in filing defence), the owner and every other person named as a defendant in every statement of claim in respect of the action;
- (b) where the lien attaches to the premises, a person with a registered interest in the premises;
- (c) where the lien attaches to the premises, an execution creditor of any person described in clause (a) or (b);
- (d) any other person having a preserved or perfected lien against the premises; and
- (e) a person joined as a third party under section 58.

Request to identify other persons having lien

(3) Where the lien does not attach to the premises, the party who obtained the appointment for the holding of the settlement meeting shall request the owner to inform him of the identity of every person described in clause (2) (d).

Service of notice of trial

(4) Subject to section 56, where the court fixes a date for trial, the party who obtained the appointment shall serve a notice of trial, at least ten days before the date appointed for trial, upon any person who is or would be entitled to a notice of a settlement meeting under subsection (2).

Conduct of settlement meeting

63.—(1) Where a settlement meeting is ordered by the court, it shall be conducted in accordance with this section.

Idem

(2) The settlement meeting shall be conducted by,

- (a) a person selected by a majority of the persons present at the meeting; or
- (b) where no person is selected, by the person who took out the appointment,

and shall be for the purpose of resolving or narrowing any issues to be tried in the action.

(3) The results of the settlement meeting shall be embodied in a ^{idem} statement of settlement which shall summarize those issues of fact and law which have been settled by the parties.

(4) The statement of settlement shall be filed with the court ^{Statement of settlement} and the settlement shall be attached to and form part of the record, and shall be binding upon all persons served with notice of the settlement meeting, and upon all defendants against whom pleadings have been noted closed under section 56, but subject to subsection 56 (3), the court may vary or set aside the statement of settlement upon such order as to costs or otherwise as it considers appropriate.

(5) Upon the filing of the statement of settlement with the court, ^{Power of court} the court may,

- (a) if there was no dispute at the meeting to a claim for lien, declare the lien valid and give such further judgment as it considers appropriate;
- (b) enter a judgment or make a report upon consent on those issues which have been settled by the parties;
- (c) make any order that is necessary in order to give effect to any judgment or report of the court under clause (a) or (b); and
- (d) make any order that is necessary for, or will expedite the conduct of, the trial.

(6) Rule 244 of the Supreme Court Rules of Practice does not ^{Non-application of rule 244} apply to an action under this Act.

64.—(1) The results of the trial shall be embodied, ^{Judgment or report}

- (a) in a judgment, where the trial is conducted by a judge or local judge of the court; or
- (b) in a report, where the trial is conducted by a master or an appointed local master of the court on a reference.

Varying
form

(2) The prescribed form of judgment or report may be varied by the court in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he is entitled.

When report
deemed
confirmed

(3) The report of a master or an appointed local master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of appeal is served within that time.

Issue of
execution

(4) The judgment or report may direct any party found liable to make a payment, to make such payment forthwith, and execution may be issued,

(a) immediately, in the case of a judgment; or

(b) after confirmation, in the case of a report.

Order for
sale

(5) The court may order that the interest in the premises be sold and may direct the sale to take place at any time after the judgment or confirmation of the report, allowing a reasonable time for advertising the sale.

Persons who
may be let in

(6) The court may allow any person with a perfected lien,

(a) who was not served with a notice of trial; or

R.S.O. 1980,
c. 25

(b) whose action was stayed by reason of an order under the *Arbitrations Act*,

to be let in to prove his claim at any time before the amount realized in the action for the satisfaction of the lien has been distributed, and where his claim is allowed, the judgment or report shall be amended to include his claim.

Personal
judgment

65. Subject to paragraph 3 of subsection 36 (4) (sheltering), the court may award any lien claimant a personal judgment, whether he proves his lien or not, upon any ground relating to his claim that is disclosed by the evidence against any party to the action for any amount that may be due to him and that he might have recovered in a proceeding against that party.

Right to
share in
proceeds

66. Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, a person with a perfected lien is entitled to share in the proceeds of sale in respect of the amount owing to him, although that amount or part thereof was not payable at the time of the commencement of the action or at the time of the distribution of the proceeds.

67.—(1) The court may make all orders necessary for the completion of a sale and for vesting an interest in premises in the purchaser. Orders for completion of sale

(2) Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, the proceeds of the sale shall be paid into court to the credit of the action. Payment into court of proceeds

(3) The court may add to the claim of the party having charge of the action his fees and actual disbursements in connection with the sale. Fees and disbursements

(4) The court shall direct to whom the proceeds shall be paid in accordance with the priorities established by this Act. To whom proceeds paid

(5) Where the proceeds of the sale are not sufficient to satisfy the judgment and costs, the court shall certify the amount of the deficiency and give personal judgment in the appropriate amount to each person whose judgment is not satisfied out of the proceeds against each person who has been found liable to him. Where proceeds insufficient to satisfy judgment

68. Where a person believes that an amount that he has in his possession is subject to a trust under Part II, he may apply to the court for direction and the court may give such direction or make such order as the court considers appropriate in the circumstances. Application to court for directions

69.—(1) The procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. Summary procedure

(2) Interlocutory proceedings, other than those provided for in this Act, shall not be taken without the consent of the court obtained upon proof that the proceedings are necessary or would expedite the resolution of the issues in dispute. Interlocutory proceedings

(3) Except where inconsistent with this Act, and subject to subsection (2), the *Judicature Act* and the Supreme Court Rules of Practice apply to pleadings and proceedings under this Act. Application of rules of practice R.S.O. 1980, c. 223

(4) The court may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or other person in such a way as it considers fit, to enable it to determine better any matter of fact in question, and may fix the remuneration of such person and direct the payment thereof by any of the parties. Technical assistance

(5) A lien claimant whose claim is for an amount within the monetary jurisdiction of a small claims court may be represented by an agent who is not a barrister and solicitor. Representation by agent

PART IX

EXTRAORDINARY REMEDIES

Application
for appoint-
ment
of trustee

70.—(1) Any person having a lien, or any other person having an interest in the premises, may apply to the court for the appointment of a trustee and the court may appoint a trustee upon such terms as to the giving of security or otherwise as the court considers appropriate.

Powers of
trustee

(2) Subject to the supervision and direction of the court, a trustee appointed under subsection (1), may,

R.S.O. 1980,
c. 379

(a) act as a receiver and manager and, subject to the *Planning Act* and the approval of the court, mortgage, sell or lease the premises or any part thereof;

(b) complete or partially complete the improvement; and

(c) take appropriate steps for the preservation of the premises.

Liens a
charge on
amounts
recovered

(3) Subject to subsection 80 (7), all liens shall be a charge upon any amount recovered by the trustee after payment of the reasonable business expenses and management costs incurred by the trustee in the exercise of any power under subsection (2).

Sale
subject to
encumbrances

(4) Any interest in the premises that is to be sold may be offered for sale subject to any mortgage, charge, interest or other encumbrance that the court directs.

Orders for
completion
of sale, etc.

(5) The court may make all orders necessary for the completion of any mortgage, lease or sale by a trustee under this section.

Labour and
material
payment
bonds

71.—(1) Where a labour and material payment bond is in effect in respect of an improvement, any person whose payment is guaranteed by that bond has a right of action to recover the amount of his claim, in accordance with the terms and conditions of the bond, against the surety on the bond, where the principal on the bond defaults in making the payment guaranteed by the bond.

Saving

(2) Nothing in this section makes the surety liable for an amount in excess of the amount that he undertakes to pay under the bond and the surety's liability under the bond shall be reduced by and to the extent of any payment made in good faith by the surety either before or after judgment is obtained against the surety.

(3) The surety, upon satisfaction of its obligation to any person whose payment is guaranteed by the bond, shall be subrogated to all the rights of that person. Subrogation

PART X

APPEALS

72.—(1) Where in the course of an action a question of law arises, the court may state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down the matter upon all parties concerned. Stated case

(2) The stated case shall set forth those facts material to the determination of the question raised. Facts to be set out

73.—(1) Subject to subsection (3), an appeal lies from a judgment or a report under this Act to the Divisional Court. Appeal to Divisional Court

(2) A party wishing to appeal a judgment or report shall file and serve his notice of appeal, Time for filing and serving notice of appeal

(a) prior to the confirmation of the report where the appeal is in respect of a report; or

(b) within fifteen days of the date of judgment in all other cases,

but the time for filing or serving the notice of appeal may be extended by the written consent of all parties, or by a single judge of the Divisional Court where an appropriate case is made out for doing so.

(3) No appeal lies from,

Where no appeal lies

(a) a judgment or a report under this Act, where the amount of the judgment or report is \$1,000 or less; or

(b) an order made by the court on an interlocutory motion.

PART XI

PRIORITIES

74. A person who has supplied services or materials in respect of an improvement may enforce his lien despite the non-completion or abandonment of the contract or a subcontract by any other person. Enforcement of lien despite default

- Assignment of lien rights **75.** The rights of a person having a lien may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative.
- Continuation of general lien **76.**—(1) Subject to section 84, where one or more premises that are subject to an unpreserved general lien are sold, the general lien continues for the full amount of the lien against those premises that are subject to the lien, that were not sold.
- Idem (2) Where a person having a preserved or perfected general lien releases the lien against one or more of the premises subject to the lien, the lien continues for the full amount of the lien against those premises that were not released.
- Effect of taking security **77.**—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of proceedings for the recovery, or the obtaining of a personal judgment for the claim, does not in itself merge, waive, pay, satisfy, prejudice or destroy a lien.
- Where note or bill negotiated (2) Where any promissory note or bill of exchange has been negotiated, the person having the lien may still enforce the lien if he is the holder of the promissory note or bill of exchange at the time when he proves his claim.
- Time not extended (3) Nothing in this section extends the time for or dispenses with the requirement for the preservation or perfection of a lien.
- Lien claimant deemed purchaser
R.S.O. 1980, cc. 445, 230 **78.** Where a claim for lien is preserved by registration, the lien claimant shall be deemed to be a purchaser to the extent of his lien within the provisions of the *Registry Act* and *Land Titles Act*, but except as otherwise provided in this Act, those Acts do not apply to any lien arising under this Act.
- Priority of liens over executions, etc. **79.** The liens arising from an improvement have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders except those executed or recovered upon before the time when the first lien arose in respect of the improvement.
- Priority over mortgages, etc. **80.**—(1) Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises.
- Building mortgage (2) Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement, the liens arising from the improvement have priority over that mortgage to the extent of any deficiency in the holdbacks required to be retained under Part V, irrespective of when that mortgage is registered.

(3) Subject to subsection (2), and without limiting the effect of subsection (4), all conveyances, mortgages or other agreements affecting the owner's interest in the premises that were registered prior to the time when the first lien arose in respect of an improvement have priority over the liens arising from the improvement to the extent of the lesser of,

Prior mortgages, prior advances

- (a) the actual value of the premises at the time when the first lien arose; and
- (b) the total of all amounts that prior to that time were,
 - (i) advanced in the case of a mortgage, and
 - (ii) advanced or secured in the case of a conveyance or other agreement.

(4) Subject to subsection (2), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that was registered prior to the time when the first lien arose in respect of an improvement, has priority, in addition to the priority to which it is entitled under subsection (3), over the liens arising from the improvement, to the extent of any advance made in respect of that conveyance, mortgage or other agreement after the time when the first lien arose, unless,

Prior mortgages, subsequent advances

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or
- (b) prior to the time when the advance was made, the person making the advance had received written notice of a lien.

(5) Where any mortgage is registered after the time when the first lien arose in respect of an improvement, the liens arising from the improvement have priority over the mortgage to the extent of any deficiency in the holdbacks required to be retained under Part V.

Special priority against subsequent advances

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect to the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

General priority against subsequent mortgages

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

- (b) prior to the time when the advance was made, the person making the advance receives written notice of a lien.

Advances
to trustee
under
Part IX

(7) Despite anything in this Act, where an amount is advanced to a trustee appointed under Part IX as a result of the exercise of any powers conferred upon him under that Part,

- (a) the interest in the premises acquired by the person making the advance takes priority, to the extent of the advance, over every lien existing at the date of the trustee's appointment; and
- (b) the amount received is not subject to any lien existing at the date of the trustee's appointment.

Where
postponement

(8) Despite subsections (4) and (6), where a preserved or perfected lien is postponed in favour of the interest of some other person in the premises, that person shall enjoy priority in accordance with the postponement over,

- (a) the postponed lien; and
- (b) where an advance is made, any unpreserved lien in respect of which no written notice has been received by the person in whose favour the postponement is made at the time of the advance,

but nothing in this subsection affects the priority of the liens under subsections (2) and (5).

Saving

(9) Subsections (2) and (5) do not apply in respect of a mortgage that was registered prior to the day on which this Act comes into force.

Persons who
comprise
class

81. All persons having a lien who have supplied services or materials to the same payer comprise a class, and a person who has supplied services or materials to more than one payer is a member of every class to the extent to which his lien relates to that class.

Priority
between
and within
class

82.—(1) Except where it is otherwise provided by this Act,

- (a) no person having a lien is entitled to any priority over another member of the same class;
- (b) all amounts available to satisfy the liens in respect of an improvement shall be distributed rateably among the members of each class according to their respective rights; and

(c) the lien of every member of a class has priority over the lien of the payer of that class.

(2) Any conveyance or mortgage in respect of the premises to any person entitled to a lien on the premises, in payment of or as security for that claim, whether given before or after that lien arises, is void against all other persons entitled to a lien on the premises. Where conveyance or mortgage void

83.—(1) The lien of a worker has priority over the lien of any other person belonging to the same class to the extent of the amount of forty regular-time working days' wages. Worker's priority

(2) Where monetary supplementary benefits are payable to a workers' trust fund instead of to a worker, the trustee of the workers' trust fund is subrogated to the rights of the worker under this Act with respect to those benefits. Workers' trust fund

(3) Every device to defeat the priority given to workers by this section is void. Device to defeat workers' priority void

84. Where a general lien is realized against a premises in an action in which other liens are also realized against the premises, Sub-ordination of general lien claims

(a) the general lien shall rank with the other liens according to the rules of priority set out in section 82 only to the extent of,

(i) the total value of the general lien,

divided by,

(ii) the total number of premises to which the person having the general lien supplied services or materials under his contract or subcontract; and

(b) in respect of the balance of the general lien, it shall rank next in priority to all other liens against the premises, whether or not of the same class.

85. Where a premises that is subject to a lien is destroyed in whole or in part, any amount received by the owner or a mortgagee by reason of any insurance on the premises shall take the place of the premises so destroyed and shall be distributed in accordance with the priorities set out in this Part. Application of insurance proceeds

86. Where an interest in premises is sold or leased under an order of the court or by a trustee appointed under Part IX, the proceeds received as a result of that disposition, together with Distribution of proceeds of sale

any amount paid into court under subsection 67 (2), shall be distributed in accordance with the priorities set out in this Part.

Priority
between
trust
beneficiaries

87.—(1) Subject to section 10, all beneficiaries of the trust under Part II who have a lien have priority in the distribution of trust funds over those beneficiaries of the trust whose liens have expired.

Idem

(2) Priority in the distribution of trust funds between those beneficiaries who have liens shall be in accordance with the respective priorities of their liens as set out in this Part.

Idem

(3) Priority in the distribution of trust funds between those beneficiaries whose liens have expired shall be in accordance with the respective priorities to which those liens would have been entitled as set out in this Part had those liens not expired.

PART XII

MISCELLANEOUS RULES

Costs

88.—(1) Subject to subsection (2), any order as to the costs in an action, application, motion or settlement meeting is in the discretion of the court, and an order as to costs may be made against,

(a) any party to the action or motion; or

(b) the solicitor or agent of any party to the action, application or motion, where the solicitor or agent has,

(i) knowingly participated in the preservation or perfection of a lien, or represented a party at the trial of an action, where it is clear that the claim for lien is without foundation or is for a grossly excessive amount, or that the lien has expired, or

(ii) by his conduct prejudiced or delayed the conduct of the action,

and the order may be made on a solicitor-and-client basis, including where the motion is heard by, or the action has been referred under section 60 to, a master or an appointed local master.

Where least
expensive
course not
taken

(2) Where the least expensive course is not taken by a party, the costs allowed to him shall not exceed what would have been incurred had the least expensive course been taken.

(3) Except where otherwise ordered by the court hearing an appeal, the costs of an appeal shall be on the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court and where it exceeds that amount shall be on the Supreme Court scale. ^{Scale of costs}

89.—(1) Subject to subsection (3) and, except where otherwise ordered by the court, all documents and notices required to be given or that may be given under this Act are sufficiently given if served personally on the intended recipient, or if sent by certified or registered mail addressed to him at, ^{How documents may be given}

- (a) his address for service, if there is one; or
- (b) his last known mailing address according to,
 - (i) the records of the person sending the document, or
 - (ii) stated on the most recently registered instrument identifying him as a person having an interest in the premises.

(2) In the absence of evidence to the contrary, a document or notice sent to a person by certified or registered mail shall be deemed to have been received by him on the fifth day following the date on which it was mailed, exclusive of Saturdays and holidays. ^{When document deemed received}

(3) Except where otherwise ordered by the court, the following shall not be sent by certified or registered mail but shall be served personally upon the intended recipient: ^{Where personal service required}

1. Statement of claim.
2. Notice of trial or settlement meeting.
3. Notice under subsection 19 (1).
4. Notice of appeal.

(4) Where a document or notice is sent by registered mail, the date appearing on the postal registration receipt shall be deemed conclusively to be the date of mailing. ^{Date of mailing}

90. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing forms and providing for their use;

- (b) prescribing the appropriate offices of the Crown to which claims for lien must be sent;
- (c) prescribing the form and manner of publication of copies of certificates and declarations of substantial performance under section 32.

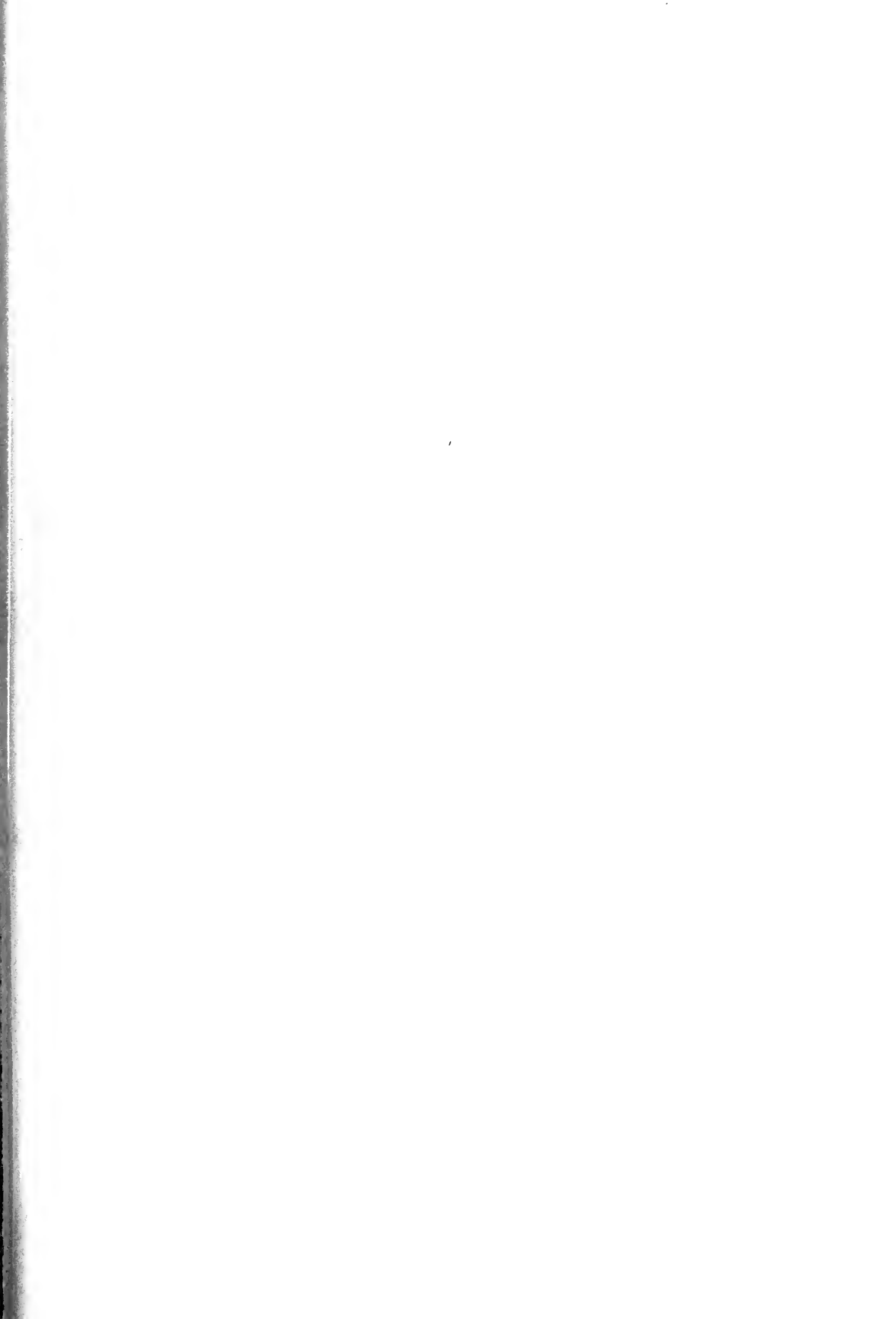
Repeal **91.** Sections 1 to 51 and section 53 of the *Mechanics' Lien Act*, being chapter 261 of the Revised Statutes of Ontario, 1980, are repealed.

Commence-
ment and
application **92.**—(1) This Act comes into force on the 1st day of January, 1983, and applies to all contracts entered into on or after that date and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Transitional
R.S.O. 1980,
c. 261 (2) Despite section 91, the *Mechanics' Lien Act* continues to apply to all contracts entered into before the 1st day of January, 1983, and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Idem (3) Despite section 91, where a contract entered into before the 1st day of January, 1983 is amended in good faith on or after that date, the *Mechanics' Lien Act* applies to that amendment and to all subcontracts arising under it and to all services or materials supplied thereunder.

Short title **93.** The short title of this Act is the *Construction Lien Act, 1982*.



An Act to revise the Mechanics' Lien Act

1st Reading

June 8th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend Certain Acts
in respect of Assessment Appeal Procedures**

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

GENERAL

Under the existing *Assessment Act*, complaints against property assessments are first made to the Assessment Review Court. An appeal may then be taken to a judge of the county court, with a further appeal from the decision of the judge to the Ontario Municipal Board.

In order to overcome delays that have arisen under the existing legislation, the Bill will remove the county court judge from this process, so that appeals will go directly from the Assessment Review Court (renamed the Assessment Review Board) to the Municipal Board. A special Assessment Appeals Division of the Board is established to hear these appeals. In addition, appeals currently before county court judges that have not been set down for hearing will be transferred to the Municipal Board.

The Bill does not alter the procedure under section 50 of the *Assessment Act*, whereby questions of law relating to an assessment may be submitted, at any stage, directly to the county court or the Supreme Court.

The *Municipal Act* contains an appeal system similar to the *Assessment Act*. The Bill amends the *Municipal Act* so that appeals from the Assessment Review Board on applications to reduce or increase taxes will go directly to the Municipal Board. Similarly, the Bill amends the *Local Improvement Act* so that appeals from courts of revision respecting local improvement assessments will go directly to the Municipal Board. In both cases, the Bill removes county court judges from the appeal process.

SECTIONS 1 AND 2. The Assessment Review Court is renamed the Assessment Review Board.

SECTION 3.—Subsection 1. The definition of “county judge” in the *Assessment Act* is repealed.

Subsection 2. The re-enactment of section 39 of the *Assessment Act* reflects the change in name to the Assessment Review Board and omits the existing references to an appeal to the county judge.

BILL 140

1982

An Act to amend Certain Acts in respect of Assessment Appeal Procedures

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

1. The title to the *Assessment Review Court Act*, being chapter 32 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Assessment Review Court Act, title, re-enacted

ASSESSMENT REVIEW BOARD ACT

2. Where in any general or special Act or in any regulation, reference is made,
- (a) to the *Assessment Review Court Act*;
- (b) to the Assessment Review Court; or
- (c) to the "Court" or the "court", meaning the Assessment Review Court,

Amendments to references

R.S.O. 1980, c. 32

the reference, in the case mentioned in clause (a), shall be deemed to be to the *Assessment Review Board Act* and in the cases mentioned in clauses (b) and (c), to the Assessment Review Board.

- 3.—(1) Clause 1 (i) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is repealed.
- (2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 7, is repealed and the following substituted therefor:

R.S.O. 1980, c. 31, s. 1 (i), repealed

R.S.O. 1980, c. 31, s. 39, re-enacted

39.—(1) Any person, including a municipality or a school board, may complain in writing to the Assessment Review Board that he or another person,

Complaint to Assessment Review Board

- (a) was assessed too high or too low;

- (b) was wrongly placed on or omitted from the assessment roll;
- (c) was wrongly placed on or omitted from the roll as a public or separate school supporter.
- Time for making complaint
- (2) A complaint shall state a name and address where notices can be given to the complainant and shall be delivered or mailed to the regional registrar of the Assessment Review Board within twenty-one days after the assessment roll is required to be returned or within twenty-one days after the roll is returned, whichever is later.
- Where complaint concerns another person
- (3) Where the complaint concerns the assessment of another person,
- (a) the complaint shall state a name and address where notices can be given to the person; and
- (b) the complainant shall deliver or mail a copy of the complaint to the person within the time limited by subsection (2).
- Copy of complaints to assessment commissioner
- (4) The regional registrar shall forthwith transmit a copy of all complaints received by him to the assessment commissioner.
- Parties
- (5) The parties to the proceedings are the assessment commissioner, the municipality, all persons complaining and all persons whose assessment is complained of.
- Notice of hearing
- (6) The regional registrar shall give notice of any hearing by the Assessment Review Board to the parties at least fourteen days before the date fixed for the hearing.
- Adding party
- (7) Where during the hearing it appears that another person should be a party to the hearing, the Board shall add the person as a party and, if necessary, adjourn and give the person notice of the hearing.
- Preliminary explanation
- (8) Where value is a ground of complaint that is proceeded with, at the commencement of the hearing the assessor shall explain the manner in which the assessment was arrived at and the complainant shall explain the nature of his complaint.
- Time for determination of school support
- (9) Liability in respect of public or separate school support shall be determined in accordance with the circumstances existing at the time the complaint was made.
- Correction of errors
- (10) Where it appears during the hearing that there are palpable errors in the assessment roll, if no alteration of assessed

Subsection 3. The amendment makes it clear that a certified copy of the assessment roll is to be received as *prima facie* evidence by any tribunal as well as by any court.

Subsection 4. The sections repealed provided for an appeal to the county judge from the decision of the Assessment Review Court.

Subsection 5. The re-enacted section 47 of the *Assessment Act*, providing for an appeal to the Municipal Board, is restructured to reflect the fact an appeal lies directly to the Municipal Board from the Assessment Review Board. In addition, the automatic right of appeal from the Municipal Board to the Divisional Court on a question of law is removed. There remains however the right to such appeal with leave of the Divisional Court under section 95 of the *Ontario Municipal Board Act*.



values is involved, the Board may correct the roll and, where alteration of assessed values is involved, the Board may extend the time for making complaints and the assessor may be or may be directed by the Board to be the complainant.

(11) After hearing the evidence and the submissions of the parties, the Board shall determine the matter and, in complaints involving value, shall determine the amount of the assessment. Board to make determination

(12) The decision of the Assessment Review Board shall be forwarded by the regional registrar to the clerk of each municipality and the clerk of the municipality shall forthwith, Alteration of roll by clerk

(a) alter the assessment roll in accordance with the decisions of the Board from which no appeal is taken and shall write his name or initials against every alteration, and shall complete the roll by totalling the amounts of the assessments therein and inserting such total; or

(b) where data processing equipment is used and as an alternative to complying with clause (a), cause to be prepared a new assessment roll which shall include all changes that have been made by the Board and from which no appeal is taken and shall initial each entry so changed and shall complete the roll by totalling the amounts of the assessments therein and inserting each total.

(3) Section 41 of the said Act is amended by inserting after "court" in the fourth line "or tribunal". R.S.O. 1980, c. 31, s. 41, amended

(4) Sections 42 to 45 and section 46 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 8, are repealed. R.S.O. 1980, c. 31, ss. 42-46, repealed

(5) Section 47 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 9, is repealed and the following substituted therefor: R.S.O. 1980, c. 31, s. 47, re-enacted

47.—(1) An appeal lies to the Ontario Municipal Board from the decision of the Assessment Review Board under section 39. Appeal to O.M.B.

(2) The party appealing shall, within twenty-one days of the mailing of the decision of the Assessment Review Board, deliver or mail to the regional registrar of the Assessment Review Board a notice of appeal accompanied by the fee prescribed by the Ontario Municipal Board under the *Ontario Municipal Board Act*. Notice of appeal R.S.O. 1980, c. 347

Delivery of
notice of
appeal

(3) The regional registrar of the Assessment Review Board shall forthwith deliver or mail a copy of the notice of appeal to the other parties.

Material
to be
forwarded
to O.M.B.

(4) The regional registrar shall forward to the Ontario Municipal Board the notice of appeal, the amount of the fee mentioned in subsection (2) and any other material in his possession necessary for the hearing of the appeal.

New trial

(5) The appeal shall be by way of a new trial.

Alteration
in roll as
result of
O.M.B.
decision
or appeal
therefrom

(6) If by the decision of the Ontario Municipal Board or by the decision on an appeal therefrom, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality shall, except where an appeal from the decision is commenced, alter the assessment roll to give effect to the decision and shall write his name or initials against every alteration.

R.S.O. 1980,
c. 31, s. 48 (1),
amended

(6) Subsection 48 (1) of the said Act is amended by striking out "Assessment Review Court, county judge or Ontario Municipal Board hearing an appeal under section 43, or the Divisional Court" in the second, third and fourth lines and inserting in lieu thereof "Assessment Review Board, Ontario Municipal Board or court".

R.S.O. 1980,
c. 31, s. 49 (1),
amended

(7) Subsection 49 (1) of the said Act is amended by striking out "Assessment Review Court, county judge" in the second line and in the seventh and eighth lines and inserting in lieu thereof in each instance "Assessment Review Board".

R.S.O. 1980,
c. 31, s. 49 (2),
re-enacted

(8) Subsection 49 (2) of the said Act is repealed and the following substituted therefor:

Decision
re quantum,
etc., final

(2) A decision of the Assessment Review Board or Ontario Municipal Board with regard to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum is final and binding unless appealed in accordance with the provisions of this Act or the *Ontario Municipal Board Act*.

R.S.O. 1980,
c. 347

R.S.O. 1980,
c. 31, s. 49 (3),
amended

(9) Subsection 49 (3) of the said Act is amended by striking out "39, 42 and 47" in the second line and inserting in lieu thereof "39 and 47".

R.S.O. 1980,
c. 31, s. 50 (6),
amended

(10) Subsection 50 (6) of the said Act is amended by striking out "Assessment Review Court, a judge of the county court" in the second and third lines and inserting in lieu thereof "Assessment Review Board" and by striking out "Assessment Review Court, the judge of the county court" in the sixth and

Subsections 6 to 14. Those amendments are consequent on the change in name to the Assessment Review Board, the removal from the appeal process of the county judge, and the removal of an automatic right of appeal to the Divisional Court.

SECTIONS 4 AND 5. The amendments to the *Municipal Act* generally accommodate the change in name of the Assessment Review Court and remove the role of the county judge in the appeal process. Sections 496 and 497 of the *Municipal Act* are concerned with applications for the cancellation, reduction or refund of taxes or for an increase in taxes where gross error has occurred. The amendments to the *Local Improvement Act* similarly reflect the removal of the county judge in appeals from assessments under that Act and provide for appeals directly from the court of revision to the Municipal Board.

seventh lines and inserting in lieu thereof "Assessment Review Board".

- (11) Clauses 51 (b), (c) and (d) of the said Act are repealed and the following substituted therefor: R.S.O. 1980,
c. 31,
s. 51 (b, c),
re-enacted;
s. 51 (d),
repealed
- (b) where a complaint with respect to the assessment is made to the Assessment Review Board, except within the time limited for appealing from the Assessment Review Board to the Ontario Municipal Board; and
- (c) where an appeal is made from the decision of the Assessment Review Board to the Ontario Municipal Board, except within fifteen days after the date of the decision of the Ontario Municipal Board,
-
- (12) Subsection 55 (7) of the said Act is repealed. R.S.O. 1980,
c. 31, s. 55 (7),
repealed
- (13) Subsection 55 (8) of the said Act is amended by striking out "the judgment of the Divisional Court" in the first and second lines and inserting in lieu thereof "an appeal therefrom". R.S.O. 1980,
c. 31, s. 55 (8),
amended
- (14) Subsection 65 (1) of the said Act is repealed and the following substituted therefor: R.S.O. 1980,
c. 31, s. 65 (1),
re-enacted
- (1) The Assessment Review Board, Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property. Powers
on appeal
- 4.—(1) Subsection 370 (2) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out "or county judge" in the fourth line. R.S.O. 1980,
c. 302,
s. 370 (2),
amended
- (2) Subsections 496 (17) to (21) of the said Act are repealed and the following substituted therefor: R.S.O. 1980,
c. 302,
s. 496 (17, 18),
re-enacted;
s. 496 (19-21),
repealed
- (17) An appeal lies to the Municipal Board from a decision of the Assessment Review Board under this section and subsections Appeal to
O.M.B.

R.S.O. 1980,
c. 31

47 (2) to (5) of the *Assessment Act* apply with necessary modifications.

Powers of
Assessment
Review Board
and Municipal
Board

(18) The Assessment Review Board and the Municipal Board have, in respect of hearings under this section, the same powers as the council has under subsection (7).

R.S.O. 1980,
c. 302,
s. 496 (25),
re-enacted

(3) Subsection 496 (25) of the said Act is repealed and the following substituted therefor:

Notice of
decision to
assessment
commissioner

(25) A copy of any notice of a decision of the council, Assessment Review Board or Municipal Board shall be delivered or mailed to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

R.S.O. 1980,
c. 302,
s. 497 (3),
amended

(4) Subsection 497 (3) of the said Act is amended by striking out "subsection (2)" in the sixth line and inserting in lieu thereof "subsection (1)".

R.S.O. 1980,
c. 302,
s. 497 (11-13),
re-enacted;
s. 497 (14-16),
repealed

(5) Subsections 497 (11) to (16) of the said Act are repealed and the following substituted therefor:

Appeal to
O.M.B.

(11) An appeal lies to the Municipal Board from a decision of the Assessment Review Board under this section and subsections 47 (2) to (5) of the *Assessment Act* apply with necessary modifications.

Powers of
Assessment
Review Board
and Municipal
Board

(12) The Assessment Review Board and the Municipal Board in dealing with appeals and recommendations under this section have the same powers as the council has under subsection (5).

When
increases
payable

(13) The amount of any increase in taxes is not payable until the time for taking an appeal has expired and is not subject to any penalties applicable to taxes that are overdue or unpaid until the amount is payable.

R.S.O. 1980,
c. 302,
s. 497 (18),
re-enacted

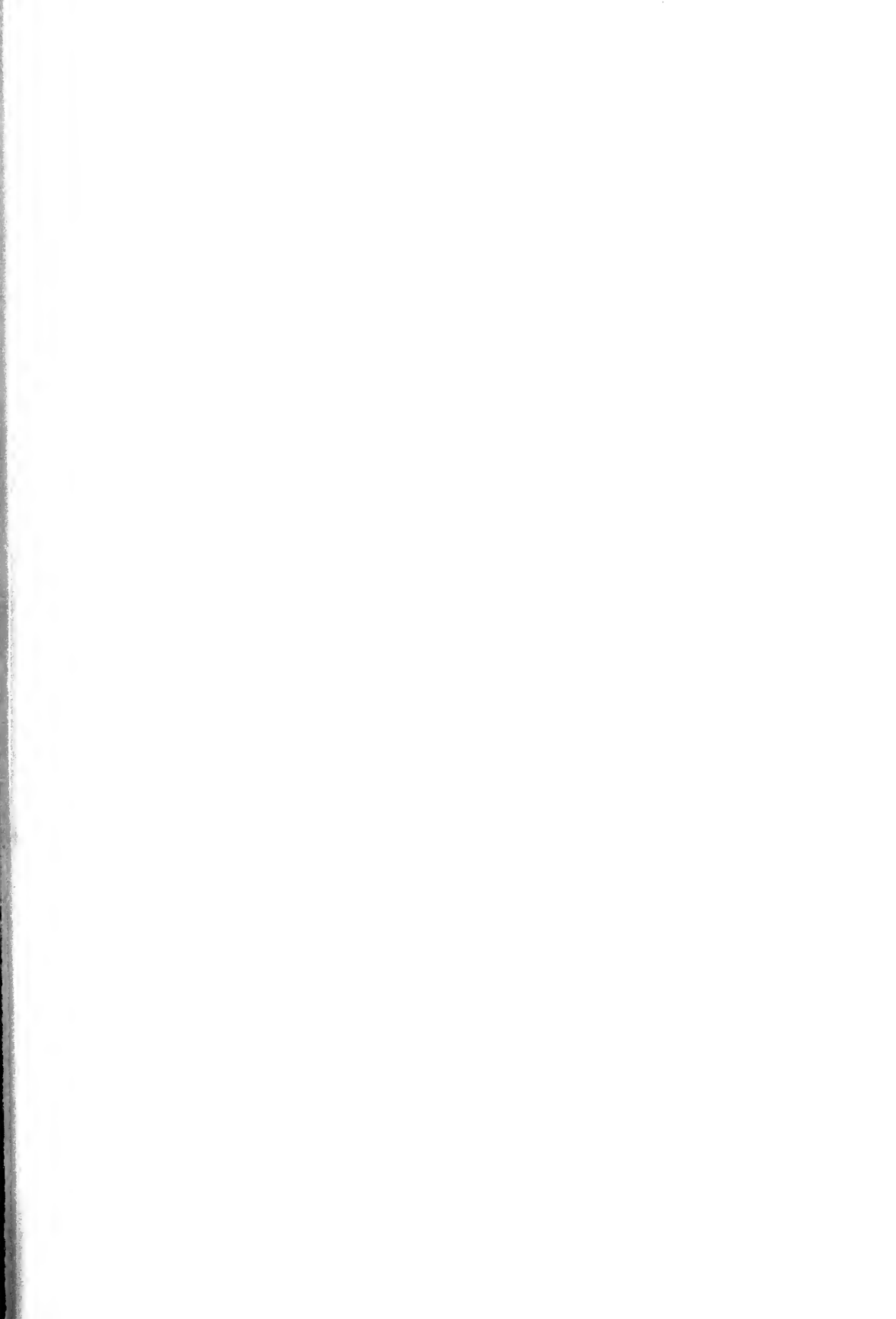
(6) Subsection 497 (18) of the said Act is repealed and the following substituted therefor:

Notice of
decision to
assessment
commissioner

(18) A copy of any notice of a decision of the council, Assessment Review Board or Municipal Board shall be delivered or mailed to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

R.S.O. 1980,
c. 250,
s. 15 (2),
amended

5.—(1) Subsection 15 (2) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by striking out "by the judge" in the fourth line and inserting in lieu thereof "on appeal therefrom".



SECTION 6. New section 5a of the *Ontario Municipal Board Act* establishes an Assessment Appeals Division of the Municipal Board to hear those assessment appeals to the Board under the various provisions of the *Assessment Act*, the *Municipal Act* and the *Local Improvement Act* that are referred to. Section 94 of the *Ontario Municipal Board Act* providing for a petition to Cabinet from a Board order is made inapplicable to orders of the Assessment Appeals Division.

SECTION 7. This transitional section provides for the disposition of appeals that have been taken to a county judge before the day this Act comes into force. If a hearing date for the appeal has been fixed the county judge will hear and dispose of it. In other cases, the appeal will be dealt with by the Municipal Board.

(2) Subsection 36 (2) of the said Act is amended by striking out "a county judge" in the first and second lines and inserting in lieu thereof "the Board". R.S.O. 1980, c. 250, s. 36 (2), amended

(3) Section 51 of the said Act is amended by striking out "to the judge" in the fifth and sixth lines. R.S.O. 1980, c. 250, s. 51, amended

(4) Section 52 of the said Act is repealed and the following substituted therefor: R.S.O. 1980, c. 250, s. 52, re-enacted

52.—(1) The council or owner of a lot specially assessed may, within twenty-one days of the mailing of the decision of the court of revision, appeal to the Board. Appeal to O.M.B.

(2) The Board has the same jurisdiction and powers as are conferred on the court of revision by section 48 and the provisions of section 50 apply where it appears to the Board that any lot not specially assessed ought to be so assessed. Powers of Board

6. The *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: R.S.O. 1980, c. 347, s. 5a, enacted

5a.—(1) There is hereby established a division of the Board to be known as the Assessment Appeals Division. Assessment Appeals Division established

(2) Every member of the Board is a member of the Assessment Appeals Division. Membership

(3) The Lieutenant Governor in Council may appoint persons to the Board to sit exclusively on appeals heard by the Assessment Appeals Division under subsection (4). Appointment by L.G. in C.

(4) The Assessment Appeals Division shall hear and determine all appeals to the Board under, Jurisdiction of Assessment Appeals Division

(a) section 47 of the *Assessment Act*;

R.S.O. 1980, cc. 31, 302, 250

(b) sections 407, 496 and 497 of the *Municipal Act*;

(c) section 52 of the *Local Improvement Act*; and

(d) subsections 7 (1) and (2) of the *Assessment Appeals Procedure Statute Law Amendment Act, 1982*. 1982, c. . . .

(5) Section 94 does not apply to an order or decision of the Assessment Appeals Division. Non-application of s. 94

7.—(1) Where, before the coming into force of this Act, an appeal has been taken under the *Assessment Act* or the *Municipal Act* Transitional R.S.O. 1980, cc. 31, 302, 250

from a decision of the Assessment Review Court to a judge of a county or district court, or under the *Local Improvement Act* from a decision of a court of revision to a judge of a county or district court,

- (a) where a date has been fixed for the hearing of the appeal, the appeal shall be heard and determined by the judge; and
- (b) where a date has not been fixed for the hearing of the appeal, the appeal shall be heard and determined by the Ontario Municipal Board.

Appeal from
county judge

- (2) Where an appeal is heard and determined by a judge of a county or district court under clause (1) (a), an appeal lies from the decision of the judge in the same manner as if this Act had not been passed.

Material
to be
forwarded
to O.M.B.

- (3) Where an appeal is to be heard by the Ontario Municipal Board under clause (1) (b),

R.S.O. 1980,
cc. 31, 302,
250

- (a) in the case of an appeal under the *Assessment Act* or the *Municipal Act*, the regional registrar of the Assessment Review Board; and
- (b) in the case of an appeal under the *Local Improvement Act*, the clerk of the municipality,

shall forward to the Ontario Municipal Board the notice of appeal and any other material in his possession necessary for the hearing of the appeal.

Commence-
ment

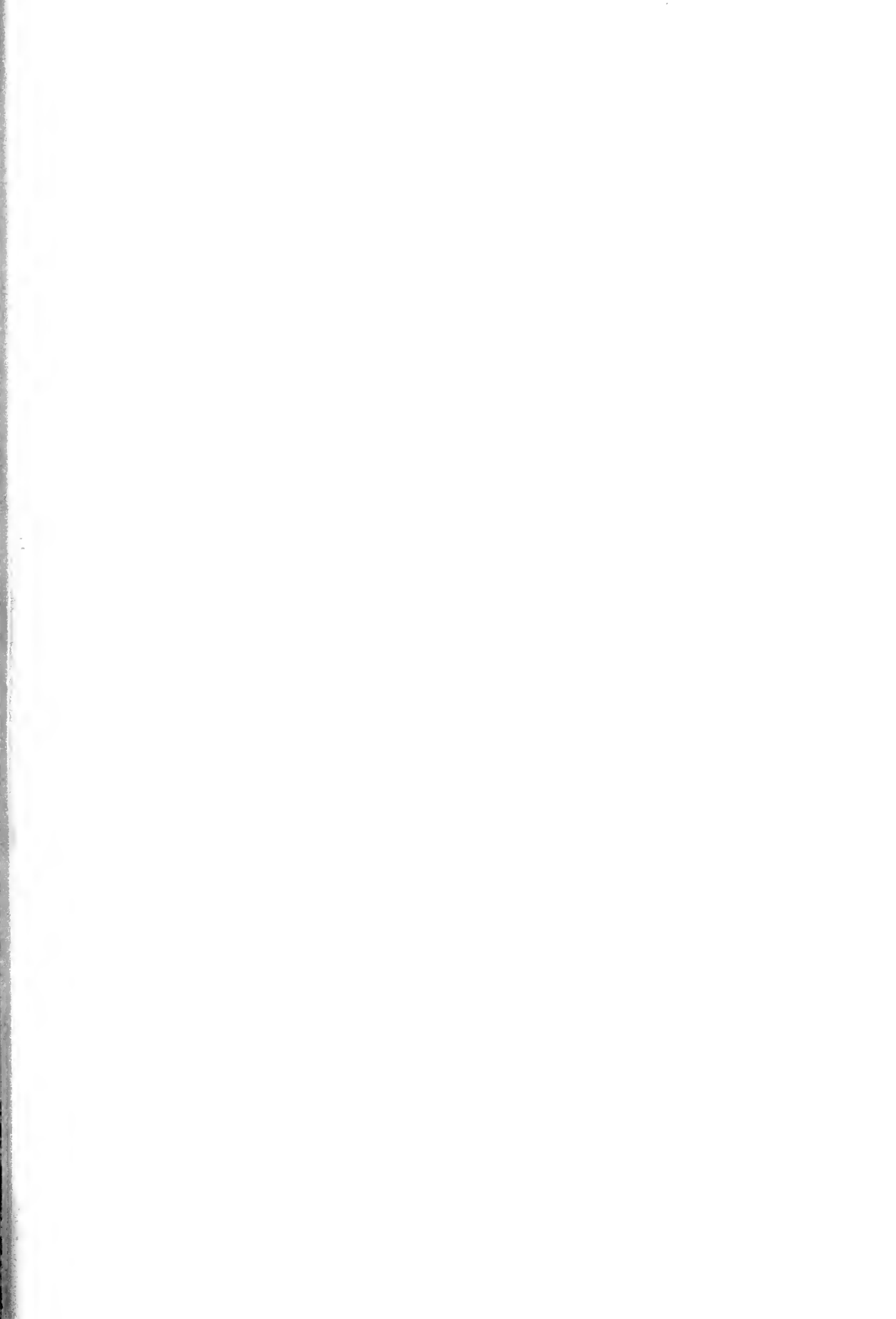
- 8.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 9.** The short title of this Act is the *Assessment Appeals Procedure Statute Law Amendment Act, 1982*.







An Act to amend Certain Acts in
respect of Assessment Appeal Procedures

1st Reading

June 8th, 1982

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend Certain Acts
in respect of Assessment Appeal Procedures**

THE HON. R. MCMURTRY
Attorney General

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

EXPLANATORY NOTES

GENERAL

Under the existing *Assessment Act*, complaints against property assessments are first made to the Assessment Review Court. An appeal may then be taken to a judge of the county court, with a further appeal from the decision of the judge to the Ontario Municipal Board.

In order to overcome delays that have arisen under the existing legislation, the Bill will remove the county court judge from this process, so that appeals will go directly from the Assessment Review Court (renamed the Assessment Review Board) to the Municipal Board. A special Assessment Appeals Division of the Board is established to hear these appeals. In addition, appeals currently before county court judges that have not been set down for hearing will be transferred to the Municipal Board.

The Bill does not alter the procedure under section 50 of the *Assessment Act*, whereby questions of law relating to an assessment may be submitted, at any stage, directly to the county court or the Supreme Court.

The *Municipal Act* contains an appeal system similar to the *Assessment Act*. The Bill amends the *Municipal Act* so that appeals from the Assessment Review Board on applications to reduce or increase taxes will go directly to the Municipal Board. Similarly, the Bill amends the *Local Improvement Act* so that appeals from courts of revision respecting local improvement assessments will go directly to the Municipal Board. In both cases, the Bill removes county court judges from the appeal process.

SECTIONS 1 AND 2. The Assessment Review Court is renamed the Assessment Review Board.

SECTION 3.—Subsection 1. The definition of “county judge” in the *Assessment Act* is repealed.

Subsection 2. The re-enactment of section 39 of the *Assessment Act* reflects the change in name to the Assessment Review Board and omits the existing references to an appeal to the county judge.

BILL 140

1982

An Act to amend Certain Acts in respect of Assessment Appeal Procedures

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

1. The title to the *Assessment Review Court Act*, being chapter 32 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Assessment Review Court Act, title, re-enacted

ASSESSMENT REVIEW BOARD ACT

2. Where in any general or special Act or in any regulation, by-law or instrument, reference is made,

Amendments to references

(a) to the *Assessment Review Court Act*;

R.S.O. 1980, c. 32

(b) to the Assessment Review Court; or

(c) to the "Court" or the "court", meaning the Assessment Review Court,

the reference, in the case mentioned in clause (a), shall be deemed to be to the *Assessment Review Board Act* and in the cases mentioned in clauses (b) and (c), to the Assessment Review Board.

- 3.—(1) Clause 1 (i) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980, c. 31, s. 1 (i), repealed

- (2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 7, is repealed and the following substituted therefor:

R.S.O. 1980, c. 31, s. 39, re-enacted

39.—(1) Any person, including a municipality or a school board, may complain in writing to the Assessment Review Board that he or another person,

Complaint to Assessment Review Board

(a) was assessed too high or too low;

(b) was wrongly placed on or omitted from the assessment roll;

(c) was wrongly placed on or omitted from the roll as a public or separate school supporter.

Time for making complaint

(2) A complaint shall state a name and address where notices can be given to the complainant and shall be delivered or mailed to the regional registrar of the Assessment Review Board within twenty-one days after the assessment roll is required to be returned or within twenty-one days after the roll is returned, whichever is later.

Where complaint concerns another person

(3) Where the complaint concerns the assessment of another person,

(a) the complaint shall state a name and address where notices can be given to the person; and

(b) the complainant shall deliver or mail a copy of the complaint to the person within the time limited by subsection (2).

Copy of complaints to assessment commissioner

(4) The regional registrar shall forthwith transmit a copy of all complaints received by him to the assessment commissioner.

Parties

(5) The parties to the proceedings are the assessment commissioner, the municipality, all persons complaining and all persons whose assessment is complained of.

Notice of hearing

(6) The regional registrar shall give notice of any hearing by the Assessment Review Board to the parties at least fourteen days before the date fixed for the hearing.

Adding party

(7) Where during the hearing it appears that another person should be a party to the hearing, the Board shall add the person as a party and, if necessary, adjourn and give the person notice of the hearing.

Preliminary explanation

(8) Where value is a ground of complaint that is proceeded with, at the commencement of the hearing the assessor shall explain the manner in which the assessment was arrived at and the complainant shall explain the nature of his complaint.

Time for determination of school support

(9) Liability in respect of public or separate school support shall be determined in accordance with the circumstances existing at the time the complaint was made.

Correction of errors

(10) Where it appears during the hearing that there are palpable errors in the assessment roll, if no alteration of assessed



Subsection 3. The amendment makes it clear that a certified copy of the assessment roll is to be received as *prima facie* evidence by any tribunal as well as by any court.

Subsection 4. The sections repealed provided for an appeal to the county judge from the decision of the Assessment Review Court.

Subsection 5. The re-enacted section 47 of the *Assessment Act*, providing for an appeal to the Municipal Board, is restructured to reflect the fact an appeal lies directly to the Municipal Board from the Assessment Review Board. In addition, the automatic right of appeal from the Municipal Board to the Divisional Court on a question of law is removed. There remains however the right to such appeal with leave of the Divisional Court under section 95 of the *Ontario Municipal Board Act*.

values is involved, the Board may correct the roll and, where alteration of assessed values is involved, the Board may extend the time for making complaints and the assessor may be or may be directed by the Board to be the complainant.

(11) After hearing the evidence and the submissions of the parties, the Board shall determine the matter and, in complaints involving value, shall determine the amount of the assessment. Board to make determination

(12) The decision of the Assessment Review Board shall be forwarded by the regional registrar to the clerk of each municipality and the clerk of the municipality shall forthwith, Alteration of roll by clerk

(a) alter the assessment roll in accordance with the decisions of the Board from which no appeal is taken and shall write his name or initials against every alteration, and shall complete the roll by totalling the amounts of the assessments therein and inserting such total; or

(b) where data processing equipment is used and as an alternative to complying with clause (a), cause to be prepared a new assessment roll which shall include all changes that have been made by the Board and from which no appeal is taken and shall initial each entry so changed and shall complete the roll by totalling the amounts of the assessments therein and inserting each total.

(3) Section 41 of the said Act is amended by inserting after "court" in the fourth line "or tribunal". R.S.O. 1980, c. 31, s. 41, amended

(4) Sections 42 to 45 and section 46 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 8, are repealed. R.S.O. 1980, c. 31, ss. 42-46, repealed

(5) Section 47 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 9, is repealed and the following substituted therefor: R.S.O. 1980, c. 31, s. 47, re-enacted

47.—(1) An appeal lies to the Ontario Municipal Board from the decision of the Assessment Review Board under section 39. Appeal to O.M.B.

(2) The party appealing shall, within twenty-one days of the mailing of the decision of the Assessment Review Board, deliver or mail to the regional registrar of the Assessment Review Board a notice of appeal accompanied by the fee prescribed by the Ontario Municipal Board under the *Ontario Municipal Board Act*. Notice of appeal R.S.O. 1980, c. 347

Delivery of
notice of
appeal

(3) The regional registrar of the Assessment Review Board shall forthwith deliver or mail a copy of the notice of appeal to the other parties.

Material
to be
forwarded
to O.M.B.

(4) The regional registrar shall forward to the Ontario Municipal Board the notice of appeal, the amount of the fee mentioned in subsection (2) and any other material in his possession necessary for the hearing of the appeal.

New trial

(5) The appeal shall be by way of a new trial.

Alteration
in roll as
result of
O.M.B.
decision
or appeal
therefrom

(6) If by the decision of the Ontario Municipal Board or by the decision on an appeal therefrom, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality shall, except where an appeal from the decision is commenced, alter the assessment roll to give effect to the decision and shall write his name or initials against every alteration.

R.S.O. 1980,
c. 31, s. 48 (1),
amended

(6) Subsection 48 (1) of the said Act is amended by striking out "Assessment Review Court, county judge or Ontario Municipal Board hearing an appeal under section 43, or the Divisional Court" in the second, third and fourth lines and inserting in lieu thereof "Assessment Review Board, Ontario Municipal Board or court".

R.S.O. 1980,
c. 31, s. 49 (1),
amended

(7) Subsection 49 (1) of the said Act is amended by striking out "Assessment Review Court, county judge" in the second line and in the seventh and eighth lines and inserting in lieu thereof in each instance "Assessment Review Board".

R.S.O. 1980,
c. 31, s. 49 (2),
re-enacted

(8) Subsection 49 (2) of the said Act is repealed and the following substituted therefor:

Decision
re quantum,
etc., final

(2) A decision of the Assessment Review Board or Ontario Municipal Board with regard to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum is final and binding unless appealed in accordance with the provisions of this Act or the *Ontario Municipal Board Act*.

R.S.O. 1980,
c. 347

R.S.O. 1980,
c. 31, s. 49 (3),
amended

(9) Subsection 49 (3) of the said Act is amended by striking out "39, 42 and 47" in the second line and inserting in lieu thereof "39 and 47".

R.S.O. 1980,
c. 31, s. 50 (6),
amended

(10) Subsection 50 (6) of the said Act is amended by striking out "Assessment Review Court, a judge of the county court" in the second and third lines and inserting in lieu thereof "Assessment Review Board" and by striking out "Assessment Review Court, the judge of the county court" in the sixth and

Subsections 6 to 14. Those amendments are consequent on the change in name to the Assessment Review Board, the removal from the appeal process of the county judge, and the removal of an automatic right of appeal to the Divisional Court.

SECTIONS 4 AND 5. The amendments to the *Municipal Act* generally accommodate the change in name of the Assessment Review Court and remove the role of the county judge in the appeal process. Sections 496 and 497 of the *Municipal Act* are concerned with applications for the cancellation, reduction or refund of taxes or for an increase in taxes where gross error has occurred. The amendments to the *Local Improvement Act* similarly reflect the removal of the county judge in appeals from assessments under that Act and provide for appeals directly from the court of revision to the Municipal Board.

seventh lines and inserting in lieu thereof "Assessment Review Board".

- (11) Clauses 51 (b), (c) and (d) of the said Act are repealed and the following substituted therefor: R.S.O. 1980,
c. 31,
s. 51 (b, c),
re-enacted;
s. 51 (d),
repealed
- (b) where a complaint with respect to the assessment is made to the Assessment Review Board, except within the time limited for appealing from the Assessment Review Board to the Ontario Municipal Board; and
- (c) where an appeal is made from the decision of the Assessment Review Board to the Ontario Municipal Board, except within fifteen days after the date of the decision of the Ontario Municipal Board,
-
- (12) Subsection 55 (7) of the said Act is repealed. R.S.O. 1980,
c. 31, s. 55 (7),
repealed
- (13) Subsection 55 (8) of the said Act is amended by striking out "the judgment of the Divisional Court" in the first and second lines and inserting in lieu thereof "an appeal therefrom". R.S.O. 1980,
c. 31, s. 55 (8),
amended
- (14) Subsection 65 (1) of the said Act is repealed and the following substituted therefor: R.S.O. 1980,
c. 31, s. 65 (1),
re-enacted
- (1) The Assessment Review Board, Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property. Powers
on appeal
- 4.—(1) Subsection 370 (2) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out "or county judge" in the fourth line. R.S.O. 1980,
c. 302,
s. 370 (2),
amended
- (2) Subsections 496 (17) to (21) of the said Act are repealed and the following substituted therefor: R.S.O. 1980,
c. 302,
s. 496 (17, 18),
re-enacted;
s. 496 (19-21),
repealed
- (17) An appeal lies to the Municipal Board from a decision of the Assessment Review Board under this section and subsections Appeal to
O.M.B.

R.S.O. 1980,
c. 31

47 (2) to (5) of the *Assessment Act* apply with necessary modifications.

Powers of
Assessment
Review Board
and Municipal
Board

(18) The Assessment Review Board and the Municipal Board have, in respect of hearings under this section, the same powers as the council has under subsection (7).

R.S.O. 1980,
c. 302,
s. 496 (25),
re-enacted

(3) Subsection 496 (25) of the said Act is repealed and the following substituted therefor:

Notice of
decision to
assessment
commissioner

(25) A copy of any notice of a decision of the council, Assessment Review Board or Municipal Board shall be delivered or mailed to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

R.S.O. 1980,
c. 302,
s. 497 (3),
amended

(4) Subsection 497 (3) of the said Act is amended by striking out "subsection (2)" in the sixth line and inserting in lieu thereof "subsection (1)".

R.S.O. 1980,
c. 302,
s. 497 (11-13),
re-enacted;
s. 497 (14-16),
repealed

(5) Subsections 497 (11) to (16) of the said Act are repealed and the following substituted therefor:

Appeal to
O.M.B.

(11) An appeal lies to the Municipal Board from a decision of the Assessment Review Board under this section and subsections 47 (2) to (5) of the *Assessment Act* apply with necessary modifications.

Powers of
Assessment
Review Board
and Municipal
Board

(12) The Assessment Review Board and the Municipal Board in dealing with appeals and recommendations under this section have the same powers as the council has under subsection (5).

When
increases
payable

(13) The amount of any increase in taxes is not payable until the time for taking an appeal has expired and is not subject to any penalties applicable to taxes that are overdue or unpaid until the amount is payable.

R.S.O. 1980,
c. 302,
s. 497 (18),
re-enacted

(6) Subsection 497 (18) of the said Act is repealed and the following substituted therefor:

Notice of
decision to
assessment
commissioner

(18) A copy of any notice of a decision of the council, Assessment Review Board or Municipal Board shall be delivered or mailed to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

R.S.O. 1980,
c. 250,
s. 15 (2),
amended

5.—(1) Subsection 15 (2) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by striking out "by the judge" in the fourth line and inserting in lieu thereof "on appeal therefrom".



SECTION 6. New section 5a of the *Ontario Municipal Board Act* establishes an Assessment Appeals Division of the Municipal Board to hear those assessment appeals to the Board under the various provisions of the *Assessment Act*, the *Municipal Act* and the *Local Improvement Act* that are referred to. Section 94 of the *Ontario Municipal Board Act* providing for a petition to Cabinet from a Board order is made inapplicable to orders of the Assessment Appeals Division.

SECTION 7. This transitional section provides for the disposition of appeals that have been taken to a county judge before the day this Act comes into force. If a hearing date for the appeal has been fixed the county judge will hear and dispose of it. In other cases, the appeal will be dealt with by the Municipal Board.

- (2) Subsection 36 (2) of the said Act is amended by striking out “a county judge” in the first and second lines and inserting in lieu thereof “the Board”. R.S.O. 1980, c. 250, s. 36 (2), amended
- (3) Section 51 of the said Act is amended by striking out “to the judge” in the fifth and sixth lines. R.S.O. 1980, c. 250, s. 51, amended
- (4) Section 52 of the said Act is repealed and the following substituted therefor: R.S.O. 1980, c. 250, s. 52, re-enacted
- 52.—(1) The council or owner of a lot specially assessed may, within twenty-one days of the mailing of the decision of the court of revision, appeal to the Board. Appeal to O.M.B.
- (2) The Board has the same jurisdiction and powers as are conferred on the court of revision by section 48 and the provisions of section 50 apply where it appears to the Board that any lot not specially assessed ought to be so assessed. Powers of Board
6. The *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: R.S.O. 1980, c. 347, s. 5a, enacted
- 5a.—(1) There is hereby established a division of the Board to be known as the Assessment Appeals Division. Assessment Appeals Division established
- (2) Every member of the Board is a member of the Assessment Appeals Division. Membership
- (3) The Lieutenant Governor in Council may appoint persons to the Board to sit exclusively on appeals heard by the Assessment Appeals Division under subsection (4). Appointment by L.G. in C.
- (4) The Assessment Appeals Division shall hear and determine all appeals to the Board under, Jurisdiction of Assessment Appeals Division
- (a) section 47 of the *Assessment Act*; R.S.O. 1980, cc. 31, 302, 250
- (b) sections 407, 496 and 497 of the *Municipal Act*;
- (c) section 52 of the *Local Improvement Act*; and
- (d) subsections 7 (1) and (2) of the *Assessment Appeals Procedure Statute Law Amendment Act, 1982*. 1982, c. . . .
- (5) Section 94 does not apply to an order or decision of the Assessment Appeals Division. Non-application of s. 94
- 7.—(1) Where, before the coming into force of this Act, an appeal has been taken under the *Assessment Act* or the *Municipal Act* Transitional R.S.O. 1980, cc. 31, 302, 250

from a decision of the Assessment Review Court to a judge of a county or district court, or under the *Local Improvement Act* from a decision of a court of revision to a judge of a county or district court,

- (a) where a date has been fixed for the hearing of the appeal, the appeal shall be heard and determined by the judge; and
- (b) where a date has not been fixed for the hearing of the appeal, the appeal shall be heard and determined by the Ontario Municipal Board.

Appeal from
county judge

- (2) Where an appeal is heard and determined by a judge of a county or district court under clause (1) (a), an appeal lies from the decision of the judge in the same manner as if this Act had not been passed.

Material
to be
forwarded
to O.M.B.

- (3) Where an appeal is to be heard by the Ontario Municipal Board under clause (1) (b),

R.S.O. 1980,
cc. 31, 302,
250

- (a) in the case of an appeal under the *Assessment Act* or the *Municipal Act*, the regional registrar of the Assessment Review Board; and
- (b) in the case of an appeal under the *Local Improvement Act*, the clerk of the municipality,

shall forward to the Ontario Municipal Board the notice of appeal and any other material in his possession necessary for the hearing of the appeal.

Commence-
ment

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

Short title

- 9.** The short title of this Act is the *Assessment Appeals Procedure Statute Law Amendment Act, 1982*.







An Act to amend Certain Acts in
respect of Assessment Appeal Procedures

1st Reading

June 8th, 1982

2nd Reading

June 28th, 1982

3rd Reading

THE HON. R. MCMURRY
Attorney General

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

BILL 140

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend Certain Acts in respect of Assessment Appeal Procedures

THE HON. R. MCMURTRY
Attorney General



An Act to amend Certain Acts in respect of Assessment Appeal Procedures

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

1. The title to the *Assessment Review Court Act*, being chapter 32 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

*Assessment
Review
Court
Act*, title,
re-enacted

ASSESSMENT REVIEW BOARD ACT

2. Where in any general or special Act or in any regulation, by-law or instrument, reference is made,
- (a) to the *Assessment Review Court Act*;
- (b) to the Assessment Review Court; or
- (c) to the "Court" or the "court", meaning the Assessment Review Court,

Amendments
to
references

R.S.O. 1980,
c. 32

the reference, in the case mentioned in clause (a), shall be deemed to be to the *Assessment Review Board Act* and in the cases mentioned in clauses (b) and (c), to the Assessment Review Board.

- 3.—(1) Clause 1 (i) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is repealed.
- (2) Section 39 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 7, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 31,
s. 1 (i),
repealed

R.S.O. 1980,
c. 31, s. 39,
re-enacted

39.—(1) Any person, including a municipality or a school board, may complain in writing to the Assessment Review Board that he or another person,

Complaint to
Assessment
Review Board

- (a) was assessed too high or too low;

(b) was wrongly placed on or omitted from the assessment roll;

(c) was wrongly placed on or omitted from the roll as a public or separate school supporter.

Time for making complaint

(2) A complaint shall state a name and address where notices can be given to the complainant and shall be delivered or mailed to the regional registrar of the Assessment Review Board within twenty-one days after the assessment roll is required to be returned or within twenty-one days after the roll is returned, whichever is later.

Where complaint concerns another person

(3) Where the complaint concerns the assessment of another person,

(a) the complaint shall state a name and address where notices can be given to the person; and

(b) the complainant shall deliver or mail a copy of the complaint to the person within the time limited by subsection (2).

Copy of complaints to assessment commissioner

(4) The regional registrar shall forthwith transmit a copy of all complaints received by him to the assessment commissioner.

Parties

(5) The parties to the proceedings are the assessment commissioner, the municipality, all persons complaining and all persons whose assessment is complained of.

Notice of hearing

(6) The regional registrar shall give notice of any hearing by the Assessment Review Board to the parties at least fourteen days before the date fixed for the hearing.

Adding party

(7) Where during the hearing it appears that another person should be a party to the hearing, the Board shall add the person as a party and, if necessary, adjourn and give the person notice of the hearing.

Preliminary explanation

(8) Where value is a ground of complaint that is proceeded with, at the commencement of the hearing the assessor shall explain the manner in which the assessment was arrived at and the complainant shall explain the nature of his complaint.

Time for determination of school support

(9) Liability in respect of public or separate school support shall be determined in accordance with the circumstances existing at the time the complaint was made.

Correction of errors

(10) Where it appears during the hearing that there are palpable errors in the assessment roll, if no alteration of assessed

values is involved, the Board may correct the roll and, where alteration of assessed values is involved, the Board may extend the time for making complaints and the assessor may be or may be directed by the Board to be the complainant.

(11) After hearing the evidence and the submissions of the parties, the Board shall determine the matter and, in complaints involving value, shall determine the amount of the assessment. Board to make determination

(12) The decision of the Assessment Review Board shall be forwarded by the regional registrar to the clerk of each municipality and the clerk of the municipality shall forthwith, Alteration of roll by clerk

(a) alter the assessment roll in accordance with the decisions of the Board from which no appeal is taken and shall write his name or initials against every alteration, and shall complete the roll by totalling the amounts of the assessments therein and inserting such total; or

(b) where data processing equipment is used and as an alternative to complying with clause (a), cause to be prepared a new assessment roll which shall include all changes that have been made by the Board and from which no appeal is taken and shall initial each entry so changed and shall complete the roll by totalling the amounts of the assessments therein and inserting each total.

(3) Section 41 of the said Act is amended by inserting after "court" in the fourth line "or tribunal". R.S.O. 1980, c. 31, s. 41, amended

(4) Sections 42 to 45 and section 46 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 8, are repealed. R.S.O. 1980, c. 31, ss. 42-46, repealed

(5) Section 47 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 9, is repealed and the following substituted therefor: R.S.O. 1980, c. 31, s. 47, re-enacted

47.—(1) An appeal lies to the Ontario Municipal Board from the decision of the Assessment Review Board under section 39. Appeal to O.M.B.

(2) The party appealing shall, within twenty-one days of the mailing of the decision of the Assessment Review Board, deliver or mail to the regional registrar of the Assessment Review Board a notice of appeal accompanied by the fee prescribed by the Ontario Municipal Board under the *Ontario Municipal Board Act*. Notice of appeal

R.S.O. 1980, c. 347

- Delivery of notice of appeal
- (3) The regional registrar of the Assessment Review Board shall forthwith deliver or mail a copy of the notice of appeal to the other parties.
- Material to be forwarded to O.M.B.
- (4) The regional registrar shall forward to the Ontario Municipal Board the notice of appeal, the amount of the fee mentioned in subsection (2) and any other material in his possession necessary for the hearing of the appeal.
- New trial
- (5) The appeal shall be by way of a new trial.
- Alteration in roll as result of O.M.B. decision or appeal therefrom
- (6) If by the decision of the Ontario Municipal Board or by the decision on an appeal therefrom, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality shall, except where an appeal from the decision is commenced, alter the assessment roll to give effect to the decision and shall write his name or initials against every alteration.
- R.S.O. 1980, c. 31, s. 48 (1), amended
- (6) Subsection 48 (1) of the said Act is amended by striking out "Assessment Review Court, county judge or Ontario Municipal Board hearing an appeal under section 43, or the Divisional Court" in the second, third and fourth lines and inserting in lieu thereof "Assessment Review Board, Ontario Municipal Board or court".
- R.S.O. 1980, c. 31, s. 49 (1), amended
- (7) Subsection 49 (1) of the said Act is amended by striking out "Assessment Review Court, county judge" in the second line and in the seventh and eighth lines and inserting in lieu thereof in each instance "Assessment Review Board".
- R.S.O. 1980, c. 31, s. 49 (2), re-enacted
- (8) Subsection 49 (2) of the said Act is repealed and the following substituted therefor:
- Decision re quantum, etc., final
- (2) A decision of the Assessment Review Board or Ontario Municipal Board with regard to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum is final and binding unless appealed in accordance with the provisions of this Act or the *Ontario Municipal Board Act*.
- R.S.O. 1980, c. 347
- R.S.O. 1980, c. 31, s. 49 (3), amended
- (9) Subsection 49 (3) of the said Act is amended by striking out "39, 42 and 47" in the second line and inserting in lieu thereof "39 and 47".
- R.S.O. 1980, c. 31, s. 50 (6), amended
- (10) Subsection 50 (6) of the said Act is amended by striking out "Assessment Review Court, a judge of the county court" in the second and third lines and inserting in lieu thereof "Assessment Review Board" and by striking out "Assessment Review Court, the judge of the county court" in the sixth and

seventh lines and inserting in lieu thereof "Assessment Review Board".

- (11) Clauses 51 (b), (c) and (d) of the said Act are repealed and the following substituted therefor:

R.S.O. 1980,
c. 31,
s. 51 (b, c),
re-enacted;
s. 51 (d),
repealed

- (b) where a complaint with respect to the assessment is made to the Assessment Review Board, except within the time limited for appealing from the Assessment Review Board to the Ontario Municipal Board; and

- (c) where an appeal is made from the decision of the Assessment Review Board to the Ontario Municipal Board, except within fifteen days after the date of the decision of the Ontario Municipal Board,

- (12) Subsection 55 (7) of the said Act is repealed.

R.S.O. 1980,
c. 31, s. 55 (7),
repealed

- (13) Subsection 55 (8) of the said Act is amended by striking out "the judgment of the Divisional Court" in the first and second lines and inserting in lieu thereof "an appeal therefrom".

R.S.O. 1980,
c. 31, s. 55 (8),
amended

- (14) Subsection 65 (1) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 31, s. 65 (1),
re-enacted

(1) The Assessment Review Board, Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Powers
on appeal

- 4.—(1) Subsection 370 (2) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out "or county judge" in the fourth line.

R.S.O. 1980,
c. 302,
s. 370 (2),
amended

- (2) Subsections 496 (17) to (21) of the said Act are repealed and the following substituted therefor:

R.S.O. 1980,
c. 302,
s. 496 (17, 18),
re-enacted;
s. 496 (19-21),
repealed

(17) An appeal lies to the Municipal Board from a decision of the Assessment Review Board under this section and subsections

Appeal to
O.M.B.

R.S.O. 1980,
c. 31

47 (2) to (5) of the *Assessment Act* apply with necessary modifications.

Powers of
Assessment
Review Board
and Municipal
Board

(18) The Assessment Review Board and the Municipal Board have, in respect of hearings under this section, the same powers as the council has under subsection (7).

R.S.O. 1980,
c. 302,
s. 496 (25),
re-enacted

(3) Subsection 496 (25) of the said Act is repealed and the following substituted therefor:

Notice of
decision to
assessment
commissioner

(25) A copy of any notice of a decision of the council, Assessment Review Board or Municipal Board shall be delivered or mailed to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

R.S.O. 1980,
c. 302,
s. 497 (3),
amended

(4) Subsection 497 (3) of the said Act is amended by striking out "subsection (2)" in the sixth line and inserting in lieu thereof "subsection (1)".

R.S.O. 1980,
c. 302,
s. 497 (11-13),
re-enacted;
s. 497 (14-16),
repealed

(5) Subsections 497 (11) to (16) of the said Act are repealed and the following substituted therefor:

Appeal to
O.M.B.

(11) An appeal lies to the Municipal Board from a decision of the Assessment Review Board under this section and subsections 47 (2) to (5) of the *Assessment Act* apply with necessary modifications.

Powers of
Assessment
Review Board
and Municipal
Board

(12) The Assessment Review Board and the Municipal Board in dealing with appeals and recommendations under this section have the same powers as the council has under subsection (5).

When
increases
payable

(13) The amount of any increase in taxes is not payable until the time for taking an appeal has expired and is not subject to any penalties applicable to taxes that are overdue or unpaid until the amount is payable.

R.S.O. 1980,
c. 302,
s. 497 (18),
re-enacted

(6) Subsection 497 (18) of the said Act is repealed and the following substituted therefor:

Notice of
decision to
assessment
commissioner

(18) A copy of any notice of a decision of the council, Assessment Review Board or Municipal Board shall be delivered or mailed to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

R.S.O. 1980,
c. 250,
s. 15 (2),
amended

5.—(1) Subsection 15 (2) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by striking out "by the judge" in the fourth line and inserting in lieu thereof "on appeal therefrom".

(2) Subsection 36 (2) of the said Act is amended by striking out "a county judge" in the first and second lines and inserting in lieu thereof "the Board". R.S.O. 1980,
c. 250,
s. 36 (2),
amended

(3) Section 51 of the said Act is amended by striking out "to the judge" in the fifth and sixth lines. R.S.O. 1980,
c. 250, s. 51,
amended

(4) Section 52 of the said Act is repealed and the following substituted therefor: R.S.O. 1980,
c. 250, s. 52,
re-enacted

52.—(1) The council or owner of a lot specially assessed may, within twenty-one days of the mailing of the decision of the court of revision, appeal to the Board. Appeal
to O.M.B.

(2) The Board has the same jurisdiction and powers as are conferred on the court of revision by section 48 and the provisions of section 50 apply where it appears to the Board that any lot not specially assessed ought to be so assessed. Powers
of Board

6. The *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: R.S.O. 1980,
c. 347, s. 5a,
enacted

5a.—(1) There is hereby established a division of the Board to be known as the Assessment Appeals Division. Assessment
Appeals
Division
established

(2) Every member of the Board is a member of the Assessment Appeals Division. Membership

(3) The Lieutenant Governor in Council may appoint persons to the Board to sit exclusively on appeals heard by the Assessment Appeals Division under subsection (4). Appointment
by L.G. in C.

(4) The Assessment Appeals Division shall hear and determine all appeals to the Board under, Jurisdiction
of Assessment
Appeals
Division

(a) section 47 of the *Assessment Act*; R.S.O. 1980,
cc. 31, 302,
250

(b) sections 407, 496 and 497 of the *Municipal Act*;

(c) section 52 of the *Local Improvement Act*; and

(d) subsections 7 (1) and (2) of the *Assessment Appeals Procedure Statute Law Amendment Act, 1982*. 1982, c. . . .

(5) Section 94 does not apply to an order or decision of the Assessment Appeals Division. Non-
application
of s. 94

7.—(1) Where, before the coming into force of this Act, an appeal has been taken under the *Assessment Act* or the *Municipal Act* Transitional
R.S.O. 1980,
cc. 31, 302,
250

from a decision of the Assessment Review Court to a judge of a county or district court, or under the *Local Improvement Act* from a decision of a court of revision to a judge of a county or district court,

- (a) where a date has been fixed for the hearing of the appeal, the appeal shall be heard and determined by the judge; and
- (b) where a date has not been fixed for the hearing of the appeal, the appeal shall be heard and determined by the Ontario Municipal Board.

Appeal from
county judge

- (2) Where an appeal is heard and determined by a judge of a county or district court under clause (1) (a), an appeal lies from the decision of the judge in the same manner as if this Act had not been passed.

Material
to be
forwarded
to O.M.B.

- (3) Where an appeal is to be heard by the Ontario Municipal Board under clause (1) (b),

- (a) in the case of an appeal under the *Assessment Act* or the *Municipal Act*, the regional registrar of the Assessment Review Board; and
- (b) in the case of an appeal under the *Local Improvement Act*, the clerk of the municipality,

shall forward to the Ontario Municipal Board the notice of appeal and any other material in his possession necessary for the hearing of the appeal.

Commence-
ment

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

Short title

- 9. The short title of this Act is the *Assessment Appeals Procedure Statute Law Amendment Act, 1982*.



An Act to amend Certain Acts in
respect of Assessment Appeal Procedures

1st Reading

June 8th, 1982

2nd Reading

June 28th, 1982

3rd Reading

June 29th, 1982

THE HON. R. MCMURTRY
Attorney General

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting the
Public Accountability of Ontario Hydro**

MR. REED

EXPLANATORY NOTE

The purpose of this Bill is to provide a means of clarifying the functions and duties of Ontario Hydro related to the production, generation, transmission, distribution, supply, sale, use and development of energy resources in Ontario. The Bill requires the Minister of Energy on behalf of the Government of Ontario to issue a policy directive setting out the policy framework within which Ontario Hydro is to make operational and management decisions. The *Power Corporation Act* is amended to clarify that it is a responsibility of the Board of Ontario Hydro to ensure that the business of Ontario Hydro is conducted within the limits established by the policy directive issued by the Minister of Energy.

**An Act respecting the
Public Accountability of Ontario Hydro**

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

PART I

Ministry of Energy Act

1. The *Ministry of Energy Act*, being chapter 277 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: ^{s. 8a, enacted}

8a.—(1) On or before the 1st day of January, 1983, the Minister shall issue on behalf of the Government of Ontario a comprehensive policy directive in the form of a statement setting out the policy framework in respect of the production, generation, transmission, distribution, supply, sale, use and development of energy resources in Ontario within which Ontario Hydro formulates operational and management decisions, and, without limiting the generality of the foregoing, the policy directive shall contain,

- (a) a statement of the respective duties and functions of the Government of Ontario and Ontario Hydro in relation to energy matters;
- (b) a specification of the policy objectives of the Government of Ontario in relation to energy matters;
- (c) a specification of the financial objectives of Ontario Hydro;
- (d) a specification of the limitations that may be imposed upon the operations of Ontario Hydro by the Government of Ontario and the conditions under which these limitations may be imposed;

(e) a description of the future operations to be conducted by Ontario Hydro in order to fulfil its responsibilities and assist in achieving the policy objectives established by the Government of Ontario, including an estimate of the extent to which these operations will require financial assistance from the Government of Ontario.

Amendments,
revision

(2) The policy directive shall be amended or revised from time to time to reflect any change in the policy of the Government of Ontario concerning the matters referred to in subsection (1).

Tabling of
directive in
Assembly

(3) The Minister shall lay the policy directive and every amendment or revised policy directive before the Assembly if it is in session, or, if not, at the commencement of the next ensuing session.

PART II

Power Corporation Act

s. 4 (1),
re-enacted

2. Subsection 4 (1) of the *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Powers of
Board

(1) The business and affairs of the Corporation are under the direction and control of the Board subject to any policy directive of the Minister of Energy issued on behalf of the Government of Ontario and the chairman shall preside at all meetings of the Board.

s. 56,
re-enacted

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

Business of
Corporation

56. The purposes and business of the Corporation include the generation, transmission, distribution, supply, sale and use of power, and, subject to,

(a) the provisions of policy directives of the Ministry of Energy issued on behalf of the Government of Ontario; and

(b) the prior authority of the Lieutenant Governor in Council in the exercise of certain powers where required under this Act,

the Corporation has power and authority to do all such things as in its opinion are necessary, usual or incidental to the furtherance of such purposes and to the carrying on of its business.

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 Hydro Accountability Act, 1982*.







An Act respecting the
Public Accountability of Ontario Hydro

1st Reading

June 10th, 1982

2nd Reading

3rd Reading

Mr. REED

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to protect the Health of Pupils in Schools

THE HON. L. GROSSMAN
Minister of Health

EXPLANATORY NOTES

The Bill relates immunization of children against certain diseases to attendance at school.

Provision is made for exemption upon medical or religious grounds.

The diseases referred to are:

1. Diphtheria.
2. Measles.
3. Mumps.
4. Poliomyelitis.
5. Rubella.
6. Tetanus.

Section 3 of the Bill authorizes a medical officer of health to require the suspension of a pupil who has not been immunized against the designated diseases and has not commenced the prescribed immunization program, unless the medical officer of health has received a statement of medical exemption or a statement of religious belief.

Section 4 states that the period of suspension under section 3 is twenty school days.

Section 5 requires service of a copy of the order upon a parent of the pupil and requires written reasons for the order.

Section 6 provides for rescission of an order made under section 3.

Section 7 provides for the physician's statement of immunization.

Section 8 requires medical officers of health to maintain and review records of immunization.

Section 9 authorizes a medical officer of health to order the exclusion of a pupil from a school when the pupil has not been fully immunized against a disease and the medical officer of health is of the opinion, upon reasonable and probable grounds, that there is an outbreak or an immediate risk of an outbreak of the disease.

Section 10 states that a medical officer of health is not required to hold a hearing or receive submissions before making an order under the Act. Hearings and appeals are provided for in sections 12 and 13.

Section 11 provides for the transfer of the record of immunization when a pupil transfers from a school in an area served by one medical officer of health to a school in an area served by another medical officer of health.

Sections 12 and 13 provide for hearings and appeals in respect of orders by medical officers of health under the Bill. Section 12 provides that an order by a medical officer of health under this Act takes effect when it is served, notwithstanding that a hearing is required.

Section 14 provides for the making of regulations and section 15 provides for service of documents.

BILL 142

1982

**An Act to protect
the Health of Pupils in Schools**

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

1. In this Act,

Interpre-
tation

- (a) "Board" means the Health Facilities Appeal Board under the *Ambulance Act*; R.S.O. 1980,
c. 20
- (b) "board" means a "board" as defined in the *Education Act*; R.S.O. 1980,
c. 129
- (c) "designated diseases" means diphtheria, measles, mumps, poliomyelitis, rubella and tetanus;
- (d) "immunization record" means a record of immunization maintained by a medical officer of health under this Act;
- (e) "medical officer of health" means "medical officer of health" as defined in the *Public Health Act*; R.S.O. 1980,
c. 409
- (f) "parent" includes an individual or a corporation that has the responsibilities of a parent;
- (g) "person" includes a board;
- (h) "physician" means legally qualified medical practitioner;
- (i) "prescribed" means prescribed by the regulations;
- (j) "pupil" means a pupil who is a minor;
- (k) "regulations" means regulations made under this Act;

R.S.O. 1980,
c. 129

- (l) "school" means a "private school" and a "school" as defined in the *Education Act* and includes a kindergarten, a junior kindergarten and a beginners class within the meaning of the *Education Act*;
- (m) "school day" means "school day" as defined in the *Education Act*;
- (n) "statement of medical exemption" means a statement in the prescribed form signed by a physician stating that the prescribed program of immunization in relation to a designated disease or designated diseases,
 - (i) may be detrimental to the health of the person named in the statement, or
 - (ii) is unnecessary in respect of the person named in the statement by reason of past infection or laboratory evidence of immunity;
- (o) "statement of religious belief" means a statement in the prescribed form signed by a parent of the person named in the statement that immunization conflicts with the tenets and practices of the religious denomination of which the parent is an adherent or a member.

Purpose
of Act

2. The purpose of this Act is to increase the protection of the health of children against the diseases that are designated diseases under this Act.

Order for
suspension re
designated
diseases

3.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school in the area served by the medical officer of health to suspend from attendance at the school a pupil named in the order.

Grounds for
order re
designated
diseases

(2) The circumstances mentioned in subsection (1) are,

- (a) that the medical officer of health has not received,
 - (i) a statement signed by a physician showing that the pupil has completed the prescribed program of immunization in relation to the designated diseases,
 - (ii) a statement of medical exemption in respect of the pupil or, where the medical officer of health has received a statement of medical exemption, the effective time period specified in the statement has expired and the medical officer of

health has not received a further statement of medical exemption, or

(iii) a statement of religious belief in respect of the pupil; and

(b) that the medical officer of health is not satisfied that the pupil has completed, has commenced and will complete or will commence and complete the prescribed program of immunization in relation to the designated diseases.

4. A suspension under an order by a medical officer of health under section 3 is for a period of twenty school days. Term of suspension

5.—(1) A medical officer of health who makes an order under section 3 shall serve a copy of the order upon a parent of the pupil. Service of copy of order upon parent

(2) An order under section 3 is not valid unless written reasons for the order are included in or attached to the order. Written reasons

(3) A medical officer of health may make orders under section 3 from time to time in respect of a pupil where the circumstances specified in the section for making the order continue to exist. Repeated orders

6. A medical officer of health who has made an order under section 3 shall rescind the order where the circumstances for making the order no longer exist. Rescission of order

7. Every physician who administers an immunizing agent to a child in relation to a designated disease shall furnish to a parent of the child a statement signed by the physician showing that the physician has administered the immunizing agent to the child. Statement by physician

8.—(1) Every medical officer of health shall maintain a record of immunization in the form and containing the information prescribed by the regulations in respect of each pupil attending school in the area served by the medical officer of health. Record of immunization

(2) A medical officer of health shall keep under review the immunization record maintained by the medical officer of health in respect of a pupil who has not completed the prescribed program of immunization in relation to the designated diseases. Review of record

9.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school located in the health unit served by the medical officer of health to exclude from the school a pupil named in the order. Order by M.O.H.

Grounds
for order

(2) The circumstances mentioned in subsection (1) are,

(a) that the medical officer of health is of the opinion, upon reasonable and probable grounds, that there is an outbreak or an immediate risk of an outbreak of a designated disease in the school at which the pupil attends; and

(b) that the medical officer of health has not received,

(i) a statement of immunization signed by a physician showing, or is not otherwise satisfied, that the pupil has completed the prescribed program of immunization in relation to the designated disease, or

(ii) a statement of medical exemption in the prescribed form signed by a physician stating that the prescribed program of immunization in relation to the designated disease is unnecessary in respect of the pupil by reason of past infection or laboratory evidence of immunity.

Term of
order

(3) An order under subsection (1) remains in force until rescinded in writing by the medical officer of health.

Rescission
of order

(4) A medical officer of health who makes an order under subsection (1) shall rescind the order as soon as the medical officer of health is satisfied that the outbreak or the immediate risk of the outbreak of the designated disease has ended.

Service
of copy
of order

(5) The medical officer of health shall serve a copy of the order under subsection (1) upon a parent of the pupil and, where the pupil is sixteen or seventeen years of age, upon the pupil.

Service of
copy of
rescinding
order

(6) The medical officer of health shall serve a rescinding order made under subsection (4) upon the person who operates the school and shall serve a copy of the order upon a parent of the pupil and, where the pupil is sixteen or seventeen years of age, upon the pupil.

Written
reasons

(7) An order under subsection (1) shall include written reasons for the making of the order.

Hearing and
submissions

10. A medical officer of health need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under this Act.

11.—(1) Where a pupil transfers from a school, the person who operates the school shall give notice of the transfer in the prescribed form to the medical officer of health serving the area in which the school is located. Notice of transfer of pupil

(2) Where the notice under subsection (1) states that the pupil is transferring to a school in an area under the jurisdiction of another medical officer of health, the medical officer of health shall send a copy of the immunization record of the pupil to the other medical officer of health. Transmittal of copy of immunization record

12.—(1) Where a medical officer of health makes an order under this Act requiring the suspension of a pupil or requiring that a pupil be excluded from a school due to an outbreak or an immediate risk of an outbreak of a designated disease, the medical officer of health shall serve upon a parent of the pupil or, where the pupil is sixteen or seventeen years of age, upon the pupil a notice of entitlement to a hearing. Notice

(2) A notice under subsection (1) shall inform the parent or pupil, as the case may be, that the parent or pupil is entitled to a hearing by the Board if the parent or pupil mails or delivers to the medical officer of health, to the Board and to the person who operates the school, within fifteen days after the notice is served on the parent or pupil, notice in writing requiring a hearing and the parent or pupil may so require such a hearing. Idem

(3) Where a hearing by the Board is required in accordance with this section, the medical officer of health shall afford to the parent or pupil requiring the hearing a reasonable opportunity before the hearing, Opportunity to show compliance and to examine documents

- (a) to show or to achieve compliance with all lawful requirements concerning the subject-matter of the hearing; and
- (b) to examine any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Where a hearing is required in accordance with this section, the Board shall appoint a time and place for and hold the hearing and the Board by order may confirm, alter or rescind the decision or order of the medical officer of health and for such purposes the Board may substitute its finding for that of the medical officer of health. Powers of Board where hearing

(5) The medical officer of health, the parent or pupil who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. Parties

Effect of order

(6) Notwithstanding that a hearing is required in accordance with this section, an order under this Act by a medical officer of health takes effect when it is served on the person to whom it is directed.

Members holding hearing not to have taken part in investigation, etc.

(7) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(8) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

R.S.O. 1980, c. 484

(9) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Only members at hearing to participate in decision

(10) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence

(11) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to court

13.—(1) Any party to the proceedings before the Board under this Act may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision or order of the Board under this Act, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the

decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order that is the subject of the appeal and to substitute its findings for that of the person who made the order as the court considers proper and for such purposes the court may substitute its opinion for that of the person who made the order or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

14. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) governing the custody, recording, inspection and destruction of records in respect of immunizations in relation to designated diseases;
- (d) prescribing programs of immunization in respect of designated diseases, including specifying immunizing agents and the number and timing of dosages of immunizing agents;
- (e) classifying children, pupils or persons and exempting any such class from any provision of this Act or the regulations and prescribing conditions to which such exemption shall be subject;
- (f) requiring and governing reports by persons who operate schools to medical officers of health in respect of records and documentation related to the immunization of children applying for admission to the schools and pupils and former pupils in the schools;
- (g) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

15.—(1) Any notice, order or other document under this Act ^{Service} or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his last known address.

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, ^{When service deemed made} served or delivered on the seventh day after the day of mailing,

unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

Commence-
ment

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

Short title

17. The short title of this Act is the *Immunization of School Pupils Act, 1982*.



An Act to protect the
Health of Pupils in Schools

1st Reading

June 11th, 1982

2nd Reading

3rd Reading

THE HON. L. GROSSMAN
Minister of Health

(Government Bill)

BILL 142

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to protect the Health of Pupils in Schools

THE HON. L. GROSSMAN
Minister of Health



BILL 142

1982

An Act to protect the Health of Pupils in Schools

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

1. In this Act,

- | | |
|--------------------------------------------------------------------------------------------------------------------|------------------------|
| | Interpre-
tation |
| (a) "Board" means the Health Facilities Appeal Board under the <i>Ambulance Act</i> ; | R.S.O. 1980,
c. 20 |
| (b) "board" means a "board" as defined in the <i>Education Act</i> ; | R.S.O. 1980,
c. 129 |
| (c) "designated diseases" means diphtheria, measles, mumps, poliomyelitis, rubella and tetanus; | |
| (d) "immunization record" means a record of immunization maintained by a medical officer of health under this Act; | |
| (e) "medical officer of health" means "medical officer of health" as defined in the <i>Public Health Act</i> ; | R.S.O. 1980,
c. 409 |
| (f) "parent" includes an individual or a corporation that has the responsibilities of a parent; | |
| (g) "person" includes a board; | |
| (h) "physician" means legally qualified medical practitioner; | |
| (i) "prescribed" means prescribed by the regulations; | |
| (j) "pupil" means a pupil who is a minor; | |
| (k) "regulations" means regulations made under this Act; | |

R.S.O. 1980,
c. 129

- (l) "school" means a "private school" and a "school" as defined in the *Education Act* and includes a kindergarten, a junior kindergarten and a beginners class within the meaning of the *Education Act*;
- (m) "school day" means "school day" as defined in the *Education Act*;
- (n) "statement of medical exemption" means a statement in the prescribed form signed by a physician stating that the prescribed program of immunization in relation to a designated disease or designated diseases,
 - (i) may be detrimental to the health of the person named in the statement, or
 - (ii) is unnecessary in respect of the person named in the statement by reason of past infection or laboratory evidence of immunity;
- (o) "statement of religious belief" means a statement in the prescribed form signed by a parent of the person named in the statement that immunization conflicts with the tenets and practices of the religious denomination of which the parent is an adherent or a member.

Purpose
of Act

2. The purpose of this Act is to increase the protection of the health of children against the diseases that are designated diseases under this Act.

Order for
suspension re
designated
diseases

3.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school in the area served by the medical officer of health to suspend from attendance at the school a pupil named in the order.

Grounds for
order re
designated
diseases

- (2) The circumstances mentioned in subsection (1) are,
 - (a) that the medical officer of health has not received,
 - (i) a statement signed by a physician showing that the pupil has completed the prescribed program of immunization in relation to the designated diseases,
 - (ii) a statement of medical exemption in respect of the pupil or, where the medical officer of health has received a statement of medical exemption, the effective time period specified in the statement has expired and the medical officer of

health has not received a further statement of medical exemption, or

(iii) a statement of religious belief in respect of the pupil; and

(b) that the medical officer of health is not satisfied that the pupil has completed, has commenced and will complete or will commence and complete the prescribed program of immunization in relation to the designated diseases.

4. A suspension under an order by a medical officer of health under section 3 is for a period of twenty school days. Term of suspension

5.—(1) A medical officer of health who makes an order under section 3 shall serve a copy of the order upon a parent of the pupil. Service of copy of order upon parent

(2) An order under section 3 is not valid unless written reasons for the order are included in or attached to the order. Written reasons

(3) A medical officer of health may make orders under section 3 from time to time in respect of a pupil where the circumstances specified in the section for making the order continue to exist. Repeated orders

6. A medical officer of health who has made an order under section 3 shall rescind the order where the circumstances for making the order no longer exist. Rescission of order

7. Every physician who administers an immunizing agent to a child in relation to a designated disease shall furnish to a parent of the child a statement signed by the physician showing that the physician has administered the immunizing agent to the child. Statement by physician

8.—(1) Every medical officer of health shall maintain a record of immunization in the form and containing the information prescribed by the regulations in respect of each pupil attending school in the area served by the medical officer of health. Record of immunization

(2) A medical officer of health shall keep under review the immunization record maintained by the medical officer of health in respect of a pupil who has not completed the prescribed program of immunization in relation to the designated diseases. Review of record

9.—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school located in the health unit served by the medical officer of health to exclude from the school a pupil named in the order. Order by M.O.H.

Grounds
for order

(2) The circumstances mentioned in subsection (1) are,

(a) that the medical officer of health is of the opinion, upon reasonable and probable grounds, that there is an outbreak or an immediate risk of an outbreak of a designated disease in the school at which the pupil attends; and

(b) that the medical officer of health has not received,

(i) a statement of immunization signed by a physician showing, or is not otherwise satisfied, that the pupil has completed the prescribed program of immunization in relation to the designated disease, or

(ii) a statement of medical exemption in the prescribed form signed by a physician stating that the prescribed program of immunization in relation to the designated disease is unnecessary in respect of the pupil by reason of past infection or laboratory evidence of immunity.

Term of
order

(3) An order under subsection (1) remains in force until rescinded in writing by the medical officer of health.

Rescission
of order

(4) A medical officer of health who makes an order under subsection (1) shall rescind the order as soon as the medical officer of health is satisfied that the outbreak or the immediate risk of the outbreak of the designated disease has ended.

Service
of copy
of order

(5) The medical officer of health shall serve a copy of the order under subsection (1) upon a parent of the pupil and, where the pupil is sixteen or seventeen years of age, upon the pupil.

Service of
copy of
rescinding
order

(6) The medical officer of health shall serve a rescinding order made under subsection (4) upon the person who operates the school and shall serve a copy of the order upon a parent of the pupil and, where the pupil is sixteen or seventeen years of age, upon the pupil.

Written
reasons

(7) An order under subsection (1) shall include written reasons for the making of the order.

Hearing and
submissions

10. A medical officer of health need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under this Act.

11.—(1) Where a pupil transfers from a school, the person who operates the school shall give notice of the transfer in the prescribed form to the medical officer of health serving the area in which the school is located. Notice of transfer of pupil

(2) Where the notice under subsection (1) states that the pupil is transferring to a school in an area under the jurisdiction of another medical officer of health, the medical officer of health shall send a copy of the immunization record of the pupil to the other medical officer of health. Transmittal of copy of immunization record

12.—(1) Where a medical officer of health makes an order under this Act requiring the suspension of a pupil or requiring that a pupil be excluded from a school due to an outbreak or an immediate risk of an outbreak of a designated disease, the medical officer of health shall serve upon a parent of the pupil or, where the pupil is sixteen or seventeen years of age, upon the pupil a notice of entitlement to a hearing. Notice

(2) A notice under subsection (1) shall inform the parent or pupil, as the case may be, that the parent or pupil is entitled to a hearing by the Board if the parent or pupil mails or delivers to the medical officer of health, to the Board and to the person who operates the school, within fifteen days after the notice is served on the parent or pupil, notice in writing requiring a hearing and the parent or pupil may so require such a hearing. Idem

(3) Where a hearing by the Board is required in accordance with this section, the medical officer of health shall afford to the parent or pupil requiring the hearing a reasonable opportunity before the hearing, Opportunity to show compliance and to examine documents

(a) to show or to achieve compliance with all lawful requirements concerning the subject-matter of the hearing; and

(b) to examine any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Where a hearing is required in accordance with this section, the Board shall appoint a time and place for and hold the hearing and the Board by order may confirm, alter or rescind the decision or order of the medical officer of health and for such purposes the Board may substitute its finding for that of the medical officer of health. Powers of Board where hearing

(5) The medical officer of health, the parent or pupil who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. Parties

- Effect of order (6) Notwithstanding that a hearing is required in accordance with this section, an order under this Act by a medical officer of health takes effect when it is served on the person to whom it is directed.
- Members holding hearing not to have taken part in investigation, etc. (7) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.
- Recording of evidence (8) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- Findings of fact R.S.O. 1980, c. 484 (9) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.
- Only members at hearing to participate in decision (10) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- Release of documentary evidence (11) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.
- Appeal to court **13.**—(1) Any party to the proceedings before the Board under this Act may appeal from its decision or order to the Divisional Court in accordance with the rules of court.
- Record to be filed in court (2) Where any party appeals from a decision or order of the Board under this Act, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.
- Powers of court on appeal (3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the

decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order that is the subject of the appeal and to substitute its findings for that of the person who made the order as the court considers proper and for such purposes the court may substitute its opinion for that of the person who made the order or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

14. The Lieutenant Governor in Council may make regula-^{Regulations}tions,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) governing the custody, recording, inspection and destruction of records in respect of immunizations in relation to designated diseases;
- (d) prescribing programs of immunization in respect of designated diseases, including specifying immunizing agents and the number and timing of dosages of immunizing agents;
- (e) classifying children, pupils or persons and exempting any such class from any provision of this Act or the regulations and prescribing conditions to which such exemption shall be subject;
- (f) requiring and governing reports by persons who operate schools to medical officers of health in respect of records and documentation related to the immunization of children applying for admission to the schools and pupils and former pupils in the schools;
- (g) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

15.—(1) Any notice, order or other document under this Act^{Service} or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his last known address.

(2) A notice, order or other document sent by ordinary mail in^{When service deemed made} accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing,

unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

Commence-
ment

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

Short title

17. The short title of this Act is the *Immunization of School Pupils Act, 1982*.



An Act to protect the
Health of Pupils in Schools

1st Reading

June 11th, 1982

2nd Reading

June 29th, 1982

3rd Reading

June 29th, 1982

THE HON. L. GROSSMAN
Minister of Health

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Operating Engineers Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The purposes of the Bill are as follows:

1. The Act will no longer apply to operators of hoisting plants and steam hoisting plants. It is proposed to transfer control of plant operators to the *Apprenticeship and Tradesmen's Qualification Act*.
2. Reference to the Board of Examiners is being deleted. The Board's function of issuing, cancelling and suspending certificates of qualification will be fulfilled by the chief officer.
3. The maximum penalty for an offence under the Act is being increased from \$1,000 to \$10,000.
4. There are some minor housekeeping changes to clarify intent.

BILL 143

1982

An Act to amend the Operating Engineers Act

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

- 1.—(1) Paragraphs 1 and 9 of section 1 of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, are repealed. s. 1, pars. 1, 9, repealed
- (2) Paragraph 14 of the said section 1 is amended by striking out “or a hoisting plant, steam hoisting plant” in the fourth and fifth lines. s. 1, par. 14, amended
- (3) Paragraph 16 of the said section 1 is repealed and the following substituted therefor: s. 1, par. 16, re-enacted
16. “pressure vessel” means a vessel that is heated or its contents are heated by,
- i. a flame or the hot gases of combustion,
 - ii. electricity, or
 - iii. a liquid.
- (4) Paragraph 24 of the said section 1 is repealed. s. 1, par. 24, repealed
2. Clauses 2 (c), (d), (e) and (i) of the said Act are repealed. s. 2 (c, d, e, i), repealed
3. Subsection 3 (1) of the said Act is repealed and the following substituted therefor: s. 3 (1), re-enacted
- (1) There shall be appointed a chief officer and such inspectors as are necessary to administer and enforce this Act and the regulations and such persons shall be subject to the direction and control of the Minister. Chief officer and inspectors
4. Section 4 of the said Act is repealed. s. 4, repealed

s. 7 (1),
re-enacted;
s. 7 (3),
repealed

Certificates
of registration

5. Subsections 7 (1) and (3) of the said Act are repealed and the following substituted therefor:

(1) The chief officer, upon receiving an application and payment of the fee, shall issue to the user of a plant a certificate of registration.

s. 8 (2),
repealed

6. Subsection 8 (2) of the said Act is repealed.

s. 9,
re-enacted

7. Section 9 of the said Act is repealed and the following substituted therefor:

Registration

9. Where the setting of a safety valve or Therm-hour rating of a registered plant is changed, the user of the plant shall notify the chief officer in writing within fifteen days with full particulars of the change and where the change is sufficient to change the classes of operating engineers or operators required for the plant, he shall return the certificate of registration together with the prescribed plant registration application form and the prescribed fee, whereupon the chief officer shall issue a new certificate of registration for the plant.

s. 15 (1),
pars. 3, 4,
repealed

8. Paragraphs 3 and 4 of subsection 15 (1) of the said Act are repealed.

s. 16 (8, 9),
repealed

- 9.—(1) Subsections 16 (8) and (9) of the said Act are repealed.

s. 16 (10),
amended

(2) Subsection 16 (10) of the said Act is amended by striking out “or of a steam hoisting engineer” in the second line.

s. 20,
re-enacted

10. Section 20 of the said Act is repealed and the following substituted therefor:

Temporary
absences

20. While a plant is in operation, an operating engineer or an operator qualified to be in charge of the plant shall be present in its boiler room, compressor room or engine room, as the case may be, or, where the plant is not enclosed, he shall be present in its immediate vicinity,

(a) unless an operating engineer or an operator holding a certificate of qualification that is not more than one class lower is present during his absence; or

(b) unless his absence is authorized by the regulations,

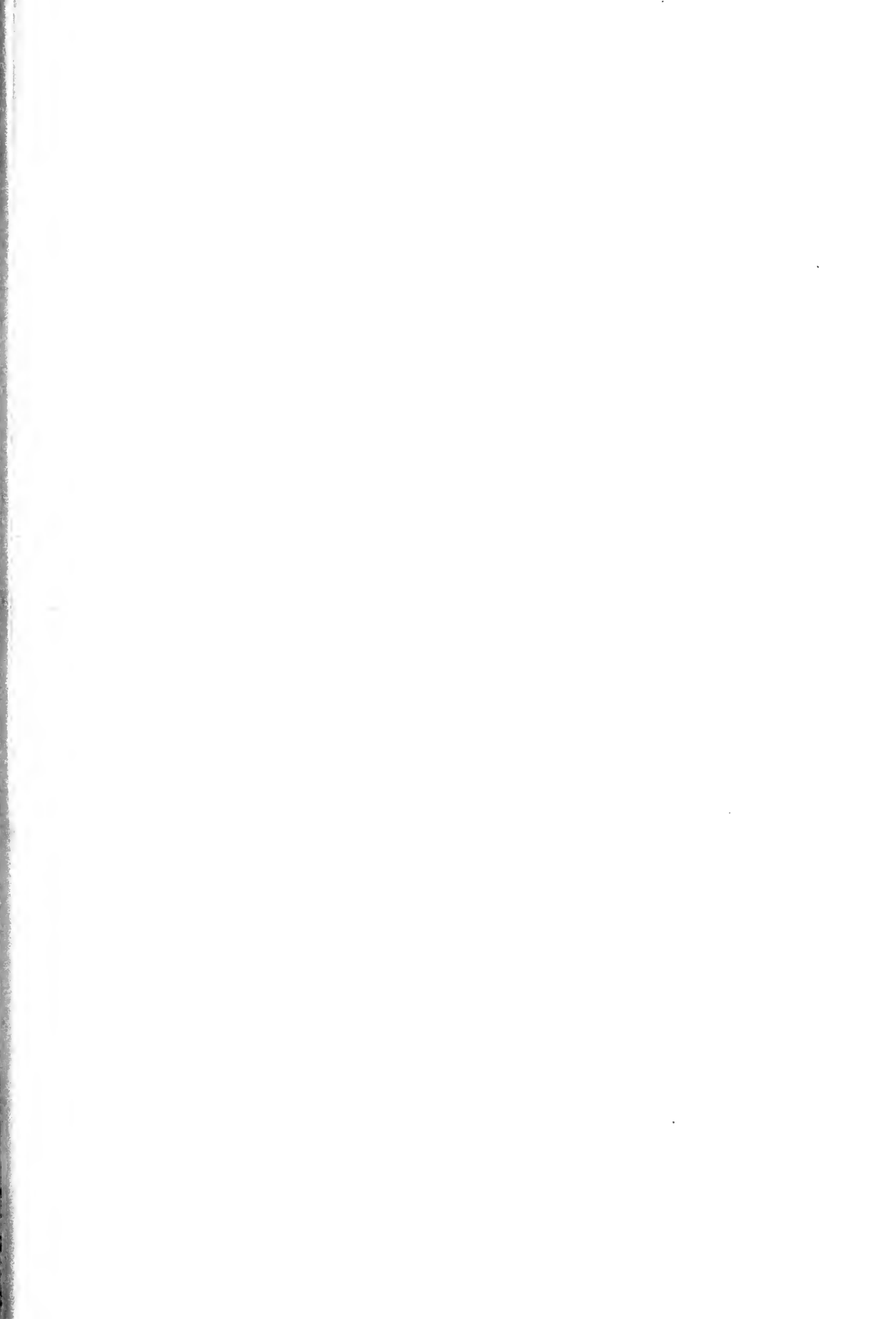
and unless, in either case, he is satisfied at the time of his leaving the plant that it is operating safely.

s. 22 (1),
amended

11. Subsection 22 (1) of the said Act is amended by striking out “Board” in the first, third and sixth lines and inserting in lieu thereof in each instance “chief officer”.

- 12.**—(1) Section 24 of the said Act is amended by striking out “Board”^{s. 24, amended} in the first line and inserting in lieu thereof “chief officer”.
- (2) Clause 24 (*k*) of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”^{s. 24 (*k*) amended}.
- 13.** Subsections 25 (1), (3), (4), (5) and (7) of the said Act are amended by striking out “Board” wherever it occurs and inserting in lieu thereof in each instance “chief officer”^{s. 25 (1, 3, 4, 5, 7), amended}.
- 14.** Subsection 26 (1) of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”^{s. 26 (1), amended}.
- 15.** Subsection 27 (4) of the said Act is amended by striking out “Board” in the fourth and seventh lines and inserting in lieu thereof in each instance “chief officer”^{s. 27 (4), amended}.
- 16.** Section 30 of the said Act is repealed and the following substituted therefor:^{s. 30, re-enacted}
30. Every operating engineer or operator shall display conspicuously his certificate of qualification in the engine room, compressor room or boiler room of the plant in which the operating engineer or operator works.^{Posting of certificates}
- 17.** Subsection 35 (1) of the said Act is repealed and the following substituted therefor:^{s. 35 (1), re-enacted}
- (1) Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations, fails to comply with an order of an inspector or hinders or obstructs any person in the performance of his duties under this Act or the regulations, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than twelve months, or to both.^{Offences}
- 18.** Clauses 37 (*a*) and (*e*) of the said Act are repealed and the following substituted therefor:^{s. 37 (*a*, *e*), re-enacted}
- (*a*) prescribing the qualifications of inspectors;
-
- (*e*) prescribing the conditions of re-examination of applicants for certificates of qualification who have failed to pass the examinations required by the chief officer.
- 19.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.^{Commencement}

Short title **20.** The short title of this Act is the *Operating Engineers Amendment Act, 1982*.



An Act to amend
the Operating Engineers Act

1st Reading

June 11th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Operating Engineers Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

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

EXPLANATORY NOTE

The purposes of the Bill are as follows:

1. The Act will no longer apply to operators of hoisting plants and steam hoisting plants. It is proposed to transfer control of plant operators to the *Apprenticeship and Tradesmen's Qualification Act*.
2. Reference to the Board of Examiners is being deleted. The Board's function of issuing, cancelling and suspending certificates of qualification will be fulfilled by the chief officer.
3. The maximum penalty for an offence under the Act is being increased from \$1,000 to \$10,000.
4. There are some minor housekeeping changes to clarify intent.

An Act to amend the Operating Engineers Act

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

- 1.—(1) Paragraphs 1 and 9 of section 1 of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, are repealed. s. 1, pars. 1, 9, repealed
- (2) Paragraph 14 of the said section 1 is amended by striking out “or a hoisting plant, steam hoisting plant” in the fourth and fifth lines. s. 1, par. 14, amended
- (3) Paragraph 16 of the said section 1 is repealed and the following substituted therefor: s. 1, par. 16, re-enacted
16. “pressure vessel” means a vessel that is heated or its contents are heated by,
- i. a flame or the hot gases of combustion,
 - ii. electricity, or
 - iii. a liquid.
- (4) Paragraph 24 of the said section 1 is repealed. s. 1, par. 24, repealed
2. Clauses 2 (c), (d), (e) and (i) of the said Act are repealed. s. 2 (c, d, e, i), repealed
3. Subsection 3 (1) of the said Act is repealed and the following substituted therefor: s. 3 (1), re-enacted
- (1) There shall be appointed a chief officer and such inspectors as are necessary to administer and enforce this Act and the regulations and such persons shall be subject to the direction and control of the Minister. Chief officer and inspectors
4. Section 4 of the said Act is repealed. s. 4, repealed

s. 7 (1),
re-enacted;
s. 7 (3),
repealed

Certificates
of registration

- 5.** Subsections 7 (1) and (3) of the said Act are repealed and the following substituted therefor:

(1) The chief officer, upon receiving an application and payment of the fee, shall issue to the user of a plant a certificate of registration.

s. 8 (2),
repealed

- 6.** Subsection 8 (2) of the said Act is repealed.

s. 9,
re-enacted

- 7.** Section 9 of the said Act is repealed and the following substituted therefor:

Registration

9. Where the setting of a safety valve or Therm-hour rating of a registered plant is changed, the user of the plant shall notify the chief officer in writing within fifteen days with full particulars of the change and where the change is sufficient to change the classes of operating engineers or operators required for the plant, he shall return the certificate of registration together with the prescribed plant registration application form and the prescribed fee, whereupon the chief officer shall issue a new certificate of registration for the plant.

s. 15 (1),
pars. 3, 4,
repealed

- 8.** Paragraphs 3 and 4 of subsection 15 (1) of the said Act are repealed.

s. 16 (8, 9),
repealed

- 9.—**(1) Subsections 16 (8) and (9) of the said Act are repealed.

s. 16 (10),
amended

(2) Subsection 16 (10) of the said Act is amended by striking out "or of a steam hoisting engineer" in the second line.

s. 20,
re-enacted

- 10.** Section 20 of the said Act is repealed and the following substituted therefor:

Temporary
absences

20. While a plant is in operation, an operating engineer or an operator qualified to be in charge of the plant shall be present in its boiler room, compressor room or engine room, as the case may be, or, where the plant is not enclosed, he shall be present in its immediate vicinity,

(a) unless an operating engineer or an operator holding a certificate of qualification that is not more than one class lower is present during his absence; or

(b) unless his absence is authorized by the regulations,

and unless, in either case, he is satisfied at the time of his leaving the plant that it is operating safely.

s. 22 (1),
amended

- 11.** Subsection 22 (1) of the said Act is amended by striking out "Board" in the first, third and sixth lines and inserting in lieu thereof in each instance "chief officer".

- 12.**—(1) Subsection 23 (1) of the said Act is amended by striking out “Board” in the first line and in the fourth line and inserting in lieu thereof in each instance “chief officer”. s. 23 (1), amended
- (2) Subsection 23 (2) of the said Act is amended by striking out “Board” in the third line and inserting in lieu thereof “chief officer”. s. 23 (2), amended
- 13.**—(1) Section 24 of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”. s. 24, amended
- (2) Clause 24 (k) of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”. s. 24 (k), amended
- 14.** Subsections 25 (1), (3), (4), (5) and (7) of the said Act are amended by striking out “Board” wherever it occurs and inserting in lieu thereof in each instance “chief officer”. s. 25 (1, 3, 4, 5, 7), amended
- 15.** Subsection 26 (1) of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”. s. 26 (1), amended
- 16.** Subsection 27 (4) of the said Act is amended by striking out “Board” in the fourth and seventh lines and inserting in lieu thereof in each instance “chief officer”. s. 27 (4), amended
- 17.** Section 30 of the said Act is repealed and the following substituted therefor: s. 30, re-enacted
30. Every operating engineer or operator shall display conspicuously his certificate of qualification in the engine room, compressor room or boiler room of the plant in which the operating engineer or operator works. Posting of certificates
- 18.** Subsection 35 (1) of the said Act is repealed and the following substituted therefor: s. 35 (1), re-enacted
- (1) Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations, fails to comply with an order of an inspector or hinders or obstructs any person in the performance of his duties under this Act or the regulations, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than twelve months, or to both. Offences
- 19.** Clauses 37 (a) and (e) of the said Act are repealed and the following substituted therefor: s. 37 (a, e), re-enacted
- (a) prescribing the qualifications of inspectors;

(e) prescribing the conditions of re-examination of applicants for certificates of qualification who have failed to pass the examinations required by the chief officer.

Commence-
ment

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

Short title

21. The short title of this Act is the *Operating Engineers Amendment Act, 1982*.



An Act to amend
the Operating Engineers Act

1st Reading

June 11th, 1982

2nd Reading

June 29th, 1982

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

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

BILL 143

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Operating Engineers Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations



An Act to amend the Operating Engineers Act

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

- 1.**—(1) Paragraphs 1 and 9 of section 1 of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, are repealed. s. 1, pars. 1, 9, repealed
- (2) Paragraph 14 of the said section 1 is amended by striking out “or a hoisting plant, steam hoisting plant” in the fourth and fifth lines. s. 1, par. 14, amended
- (3) Paragraph 16 of the said section 1 is repealed and the following substituted therefor: s. 1, par. 16, re-enacted
16. “pressure vessel” means a vessel that is heated or its contents are heated by,
- i. a flame or the hot gases of combustion,
 - ii. electricity, or
 - iii. a liquid.
- (4) Paragraph 24 of the said section 1 is repealed. s. 1, par. 24, repealed
- 2.** Clauses 2 (c), (d), (e) and (i) of the said Act are repealed. s. 2 (c, d, e, i), repealed
- 3.** Subsection 3 (1) of the said Act is repealed and the following substituted therefor: s. 3 (1), re-enacted
- (1) There shall be appointed a chief officer and such inspectors as are necessary to administer and enforce this Act and the regulations and such persons shall be subject to the direction and control of the Minister. Chief officer and inspectors
- 4.** Section 4 of the said Act is repealed. s. 4, repealed

s. 7 (1),
re-enacted;
s. 7 (3),
repealed
Certificates
of registration

- 5.** Subsections 7 (1) and (3) of the said Act are repealed and the following substituted therefor:

(1) The chief officer, upon receiving an application and payment of the fee, shall issue to the user of a plant a certificate of registration.

s. 8 (2),
repealed

- 6.** Subsection 8 (2) of the said Act is repealed.

s. 9,
re-enacted

- 7.** Section 9 of the said Act is repealed and the following substituted therefor:

Registration

9. Where the setting of a safety valve or Therm-hour rating of a registered plant is changed, the user of the plant shall notify the chief officer in writing within fifteen days with full particulars of the change and where the change is sufficient to change the classes of operating engineers or operators required for the plant, he shall return the certificate of registration together with the prescribed plant registration application form and the prescribed fee, whereupon the chief officer shall issue a new certificate of registration for the plant.

s. 15 (1),
pars. 3, 4,
repealed

- 8.** Paragraphs 3 and 4 of subsection 15 (1) of the said Act are repealed.

s. 16 (8, 9),
repealed

- 9.**—(1) Subsections 16 (8) and (9) of the said Act are repealed.

s. 16 (10),
amended

(2) Subsection 16 (10) of the said Act is amended by striking out “or of a steam hoisting engineer” in the second line.

s. 20,
re-enacted

- 10.** Section 20 of the said Act is repealed and the following substituted therefor:

Temporary
absences

20. While a plant is in operation, an operating engineer or an operator qualified to be in charge of the plant shall be present in its boiler room, compressor room or engine room, as the case may be, or, where the plant is not enclosed, he shall be present in its immediate vicinity,

(a) unless an operating engineer or an operator holding a certificate of qualification that is not more than one class lower is present during his absence; or

(b) unless his absence is authorized by the regulations,

and unless, in either case, he is satisfied at the time of his leaving the plant that it is operating safely.

s. 22 (1),
amended

- 11.** Subsection 22 (1) of the said Act is amended by striking out “Board” in the first, third and sixth lines and inserting in lieu thereof in each instance “chief officer”.

12.—(1) Subsection 23 (1) of the said Act is amended by striking out “Board” in the first line and in the fourth line and inserting in lieu thereof in each instance “chief officer”. s. 23 (1), amended

(2) Subsection 23 (2) of the said Act is amended by striking out “Board” in the third line and inserting in lieu thereof “chief officer”. s. 23 (2), amended

13.—(1) Section 24 of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”. s. 24, amended

(2) Clause 24 (*k*) of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”. s. 24 (*k*), amended

14. Subsections 25 (1), (3), (4), (5) and (7) of the said Act are amended by striking out “Board” wherever it occurs and inserting in lieu thereof in each instance “chief officer”. s. 25 (1, 3, 4, 5, 7), amended

15. Subsection 26 (1) of the said Act is amended by striking out “Board” in the first line and inserting in lieu thereof “chief officer”. s. 26 (1), amended

16. Subsection 27 (4) of the said Act is amended by striking out “Board” in the fourth and seventh lines and inserting in lieu thereof in each instance “chief officer”. s. 27 (4), amended

17. Section 30 of the said Act is repealed and the following substituted therefor: s. 30, re-enacted

30. Every operating engineer or operator shall display conspicuously his certificate of qualification in the engine room, compressor room or boiler room of the plant in which the operating engineer or operator works. Posting of certificates

18. Subsection 35 (1) of the said Act is repealed and the following substituted therefor: s. 35 (1), re-enacted

(1) Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations, fails to comply with an order of an inspector or hinders or obstructs any person in the performance of his duties under this Act or the regulations, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than twelve months, or to both. Offences

19. Clauses 37 (*a*) and (*e*) of the said Act are repealed and the following substituted therefor: s. 37 (*a, e*), re-enacted

(*a*) prescribing the qualifications of inspectors;

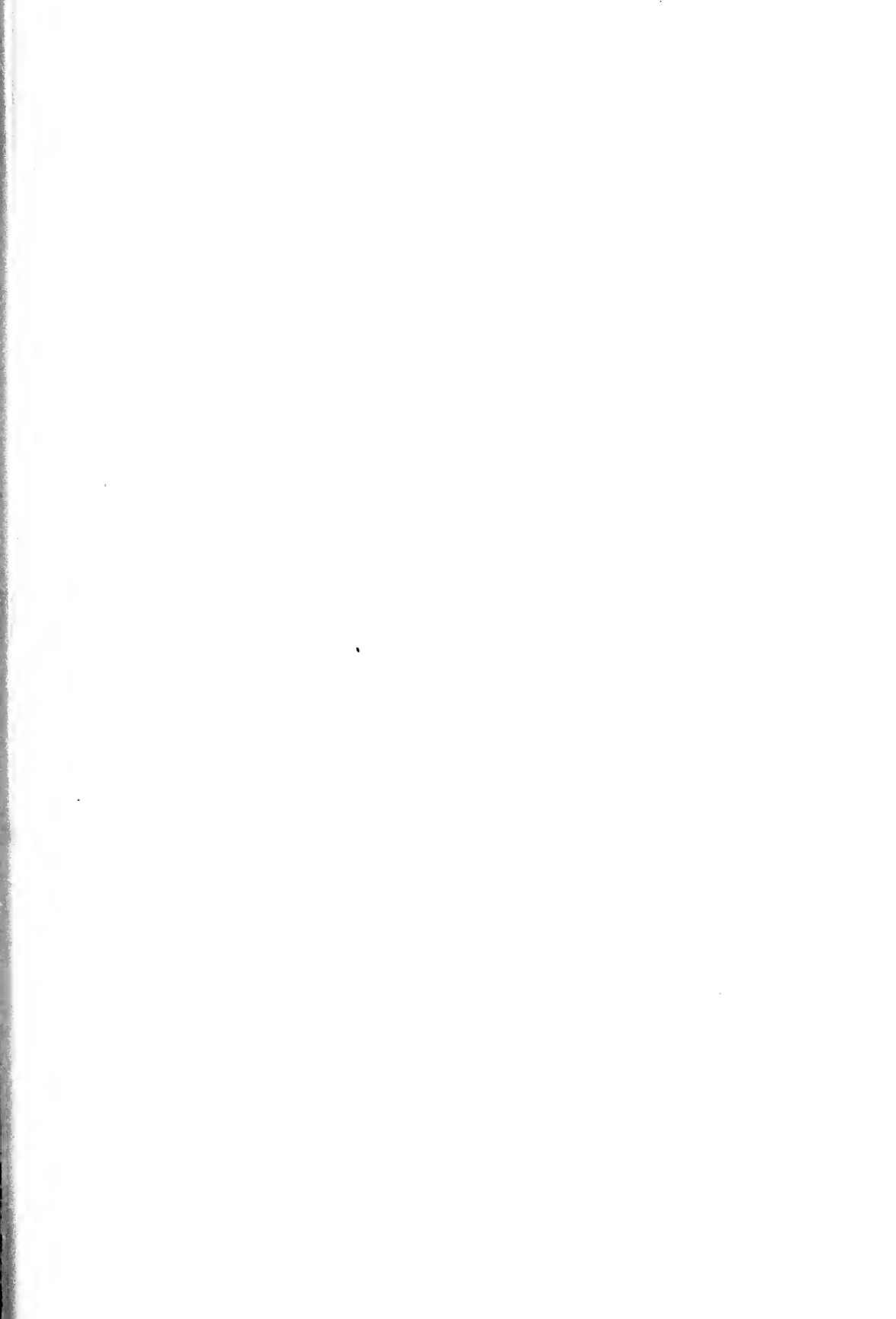
(e) prescribing the conditions of re-examination of applicants for certificates of qualification who have failed to pass the examinations required by the chief officer.

Commence-
ment

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

Short title

21. The short title of this Act is the *Operating Engineers Amendment Act, 1982*.



An Act to amend
the Operating Engineers Act

1st Reading

June 11th, 1982

2nd Reading

June 29th, 1982

3rd Reading

June 30th, 1982

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Provincial Courts Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

This Bill is complementary to a Bill to amend the *Unified Family Court Act*. The deletion of the section in that Act providing for its expiration on the 1st day of July, 1982 requires the deletion of complementary amendments to the *Provincial Courts Act* which were designed to take effect when the *Unified Family Court Act* expires.

BILL 144

1982

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 23 (3) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed. s. 23 (3),
repealed
2. Subsection 28 (2) of the said Act is repealed. s. 28 (2),
repealed
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, 1982*. Short title

An Act to amend the Provincial Courts Act

1st Reading

June 11th, 1982

2nd Reading

June 11th, 1982

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 144

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Provincial Courts Act

THE HON. R. MCMURTRY
Attorney General



BILL 144

1982

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 23 (3) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed. s. 23 (3),
repealed
2. Subsection 28 (2) of the said Act is repealed. s. 28 (2),
repealed
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, 1982*. Short title

An Act to amend the Provincial Courts Act

1st Reading

June 11th, 1982

2nd Reading

June 11th, 1982

3rd Reading

June 21st, 1982

THE HON. R. MCMURTRY
Attorney General

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend The Brantford-Brant Annexation Act, 1980

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

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 8 (1) of the Act now reads as follows:

- (1) *The City and the County may enter into agreements to determine the municipal contributions to the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads, the Brant Planning Board, the Children's Aid Society of Brant, homes-for-the-aged, rescue truck services, assisted housing, general welfare, hospital debt, health, emergency measures and a fire radio alarm system.*

By agreement between the City and the County, the Brantford Suburban Roads Commission is to be dissolved. The City and the County have agreed as to the contribution to be made by the City towards the Brant county road system. The amendment reflects those agreements.

Subsection 2. Subsection 8 (6) of the Act now reads as follows:

- (6) *Sections 66, 67 and 68 of The Public Transportation and Highway Improvement Act do not apply to agreements reached under this section in respect of suburban roads and the Brantford Suburban Roads Commission, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.*

The provisions of the *Public Transportation and Highway Improvement Act*, reference to which is being deleted, govern contributions by a city towards suburban roads and are inapplicable in any event by reason of the amendment proposed by subsection (1) of this section.

Subsection 3. Subsection 79 (3) of the *Public Transportation and Highway Improvement Act* prevents the payment of a highway improvement subsidy to a city in a county that does not contribute to the construction and maintenance of suburban roads. The proposed new subsection (6a) deems contributions made under an agreement entered into under subsection 8 (1) of the Act in respect of the Brant county road system to be such a contribution.

BILL 145

1982

**An Act to amend
The Brantford-Brant Annexation Act, 1980**

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

- 1.—(1) Subsection 8 (1) of *The Brantford-Brant Annexation Act, 1980*, being chapter 43, is amended by striking out “the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads” in the second, third and fourth lines and inserting in lieu thereof “the Brant county road system”. s. 8 (1), amended
- (2) Subsection 8 (6) of the said Act is repealed and the following substituted therefor: s. 8 (6), re-enacted
- (6) Any agreement reached under this section in respect of the Brant county road system shall not take effect until it has been approved by the Lieutenant Governor in Council. Approval of L.G. in C.
- (3) Section 8 of the said Act is amended by adding thereto the following subsection: s. 8, amended
- (6a) Any contribution made by the City in respect of the Brant county road system in accordance with an agreement reached under subsection (1), or a predecessor thereof, shall be deemed to be a contribution towards the construction and maintenance of suburban roads for the purposes of subsection 79 (3) of the *Public Transportation and Highway Improvement Act*. Deemed contribution under R.S.O. 1980, c. 421, s. 79 (3)
2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is the *Brantford-Brant Annexation Amendment Act, 1982*. Short title

An Act to amend
The Brantford-Brant Annexation Act, 1980

1st Reading

June 15th, 1982

2nd Reading

3rd Reading

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

(Government Bill)

BILL 145

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend The Brantford-Brant Annexation Act, 1980

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



**An Act to amend
The Brantford-Brant Annexation Act, 1980**

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

- 1.—(1) Subsection 8 (1) of *The Brantford-Brant Annexation Act, 1980*, being chapter 43, is amended by striking out “the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads” in the second, third and fourth lines and inserting in lieu thereof “the Brant county road system”. s. 8 (1),
amended
- (2) Subsection 8 (6) of the said Act is repealed and the following s. 8 (6),
re-enacted substituted therefor:
- (6) Any agreement reached under this section in respect of the Brant county road system shall not take effect until it has been approved by the Lieutenant Governor in Council. Approval
of
L.G. in C.
- (3) Section 8 of the said Act is amended by adding thereto the s. 8,
amended following subsection:
- (6a) Any contribution made by the City in respect of the Brant county road system in accordance with an agreement reached under subsection (1), or a predecessor thereof, shall be deemed to be a contribution towards the construction and maintenance of suburban roads for the purposes of subsection 79 (3) of the *Public Transportation and Highway Improvement Act*. Deemed
contribution
under
R.S.O. 1980,
c. 421,
s. 79 (3)
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Brantford-Brant Annexation Amendment Act, 1982*. Short title

An Act to amend
The Brantford-Brant Annexation Act, 1980

1st Reading

June 15th, 1982

2nd Reading

November 2nd, 1982

3rd Reading

November 16th, 1982

THE HON C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend The City of Thunder Bay Act, 1968-69

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

EXPLANATORY NOTES

SECTION 1. The present section 10 of *The City of Thunder Bay Act, 1968-69* specifies that the Lakehead Planning Area, which includes the City of Thunder Bay, the townships of Commee, Neebing, O'Connor, Oliver, Paipoonge and Shuniah, and the geographic townships of Goreham and Ware, is to continue as a joint planning area, with the City as a subsidiary planning area. The City is also the designated municipality of the Lakehead Planning Area.

This provision is not consistent with section 9 of the proposed new *Planning Act* (Bill 159), which authorizes the Minister of Municipal Affairs and Housing to define and name a planning area in a territorial district, but which drops terms used in the existing *Planning Act* and *The City of Thunder Bay Act, 1968-69* such as "subsidiary planning area" and "designated municipality".

The repeal of section 10 will remove the inconsistency between *The City of Thunder Bay Act, 1968-69* and the new *Planning Act*.

SECTIONS 2 AND 3. Section 24a of the Act was enacted in 1974 and reads as follows:

24a. *Notwithstanding the provisions of any general or special Act, the property of the Canadian Lakehead Exhibition Society, Fort William-Port Arthur, situate in the City and bounded on the north by Isabel Street, on the east by the Fort William Road, on the south by the McIntyre River and on the west by Memorial Avenue, shall, when in occupation by a tenant, be liable to municipal taxation, including business taxes.*

Section 24a provides that a shopping centre built on the lands described in the section are subject to taxes, notwithstanding the tax exempt status of agricultural societies. Recently, agreements have been reached whereby additional lands not described in the 1974 amendment will be conveyed by the City and by the Lakehead Regional Conservation Authority to Canadian Lakehead Exhibition and leased out as part of the shopping centre.

The proposed amendments provide that the additional lands will be liable for taxation when occupied.

BILL 146

1982

**An Act to amend
The City of Thunder Bay Act, 1968-69**

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

1. Section 10 of *The City of Thunder Bay Act, 1968-69*, being chapter 56, is repealed. s. 10,
repealed
2. Section 24a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 45, section 6, is repealed and the following substituted therefor: s. 24a,
re-enacted

24a. Notwithstanding the provisions of any general or special Act, the property of the Canadian Lakehead Exhibition Society in the City of Thunder Bay, described in Schedule C hereto, shall, when in occupation by a tenant, be liable to taxes for municipal and school purposes, including business taxes. Exhibition
property
liable to
taxation
when occupied
by tenant
3. The said Act is amended by adding thereto the following Schedule: Schedule C,
enacted

SCHEDULE C

ALL AND SINGULAR that parcel of land and premises situate in the City of Thunder Bay, in the District of Thunder Bay, bounded on the north by the north limit of Isabel Street, on the west by the east limit of Memorial Avenue, on the south by the north limit of the right of way of the Neebing/McIntyre Floodway and on the east by the proposed new west limit of Fort William Road, as revised in conjunction with the Neebing/McIntyre Floodway project, and more particularly described as follows:

COMMENCING at a point in the east limit of Memorial Avenue, formerly May Street as laid out by Registered Plan M-46, said point of commencement being the southwest corner of Part 2 on Reference Plan 55R-3571;

THENCE easterly along the southerly limits of Parts 2, 11, 12, 20, 21 and 22 as shown on the said Plan 55R-3571 to the southeast corner of the said Part 22;

THENCE easterly along the southerly limits of Parts 8, 21, 6 and 5 on Reference Plan 55R-4671 to the southwest corner of Part 4 on Reference Plan 55R-4443;

THENCE easterly on the southerly limit of the said Part 4 to the southeast corner of the said Part 4;

THENCE northerly along the east limit of the said Part 4 to the southeast corner of Part 4 on Reference Plan 55R-4671;

THENCE northerly along the east limits of Parts 4, 9, 17 and 15 on said Plan 55R-4671 to the most northerly corner of the said Part 15;

THENCE northerly along the east limits of Parts 4, 9, 17 and 15 on the said Plan 55R-4671 to the most northerly corner of the said Part 15;

THENCE northerly along the east limit of Part 20 on the said Plan 55R-4671 to the point where the said east limit is intersected by the production easterly of the north limit of Part 1 on Reference Plan 55R-3714, the said north limit being the north limit of Isabel Street;

THENCE westerly along the said production and along the north limit of Part 1 on the said Plan 55R-3714 to the northwest corner of the said Part 1, which is also a point in the east limit of Memorial Avenue;

THENCE southerly along the east limit of Memorial Avenue to the point of commencement.

Commence-
ment

4.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 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 *City of Thunder Bay Amendment Act, 1982*.







An Act to amend
The City of Thunder Bay Act, 1968-69

1st Reading

June 15th, 1982

2nd Reading

3rd Reading

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

(Government Bill)

Bill 146

*(Chapter 11
Statutes of Ontario, 1983)*

An Act to amend The City of Thunder Bay Act, 1968-69

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	June 15th, 1982
<i>2nd Reading</i>	February 14th, 1983
<i>3rd Reading</i>	February 15th, 1983
<i>Royal Assent</i>	February 23rd, 1983



Bill 146

1982

**An Act to amend
The City of Thunder Bay Act, 1968-69**

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

- 1. Section 10 of *The City of Thunder Bay Act, 1968-69*, being chapter 56, is repealed.** s. 10, repealed
- 2. Section 24a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 45, section 6, is repealed and the following substituted therefor:** s. 24a, re-enacted
- 24a.** Notwithstanding the provisions of any general or special Act, the property of the Canadian Lakehead Exhibition Society in the City of Thunder Bay, described in Schedule C hereto, shall, when in occupation by a tenant, be liable to taxes for municipal and school purposes, including business taxes. Exhibition property liable to taxation when occupied by tenant
- 3. The said Act is amended by adding thereto the following Schedule:** Schedule C, enacted

SCHEDULE C

ALL AND SINGULAR that parcel of land and premises situate in the City of Thunder Bay, in the District of Thunder Bay, bounded on the north by the north limit of Isabel Street, on the west by the east limit of Memorial Avenue, on the south by the north limit of the right of way of the Neebing/McIntyre Floodway and on the east by the proposed new west limit of Fort William Road, as revised in conjunction with the Neebing/McIntyre Floodway project, and more particularly described as follows:

COMMENCING at a point in the east limit of Memorial Avenue, formerly May Street as laid out by Registered Plan M-46, said point of commencement being the southwest corner of Part 2 on Reference Plan 55R-3571;

THENCE easterly along the southerly limits of Parts 2, 11, 12, 20, 21 and 22 as shown on the said Plan 55R-3571 to the southeast corner of the said Part 22;

THENCE easterly along the southerly limits of Parts 8, 21, 6 and 5 on Reference Plan 55R-4671 to the southwest corner of Part 4 on Reference Plan 55R-4443;

THENCE easterly on the southerly limit of the said Part 4 to the southeast corner of the said Part 4;

THENCE northerly along the east limit of the said Part 4 to the southeast corner of Part 4 on Reference Plan 55R-4671;

THENCE northerly along the east limits of Parts 4, 9, 17 and 15 on said Plan 55R-4671 to the most northerly corner of the said Part 15;

THENCE northerly along the east limits of Parts 4, 9, 17 and 15 on the said Plan 55R-4671 to the most northerly corner of the said Part 15;

THENCE northerly along the east limit of Part 20 on the said Plan 55R-4671 to the point where the said east limit is intersected by the production easterly of the north limit of Part 1 on Reference Plan 55R-3714, the said north limit being the north limit of Isabel Street;

THENCE westerly along the said production and along the north limit of Part 1 on the said Plan 55R-3714 to the northwest corner of the said Part 1, which is also a point in the east limit of Memorial Avenue;

THENCE southerly along the east limit of Memorial Avenue to the point of commencement.

Commence-
ment

4.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 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 *City of Thunder Bay Amendment Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Age of Mandatory Retirement

MR. KOLYN

EXPLANATORY NOTE

The Bill raises the age of mandatory retirement to seventy years and provides that an employee who is not able to perform his duties adequately may be required to retire after attaining the age of sixty-five.

An Act respecting the Age of Mandatory Retirement

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

- 1.—(1) Section 34 of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: R.S.O. 1980, c. 137, s. 34, amended

(2a) No employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that includes, as a term or condition thereof, a requirement that the employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. Mandatory retirement age

- (2) Subsection 34 (3) of the said Act is amended by adding at the end thereof "or (2a)". s. 34 (3), amended

- (3) Subsection 34 (4) of the said Act is amended by inserting after "(2)" in the fourth line "or (2a)". s. 34 (4), amended

2. Section 20 of the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections: R.S.O. 1980, c. 373, s. 20, amended

(10a) A pension plan filed for registration in accordance with section 17 shall not require, as a term or condition thereof, that an employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. Mandatory retirement provision

(10b) Every pension plan filed for registration prior to the day this Act comes into force that requires, as a term or condition thereof, the retirement of an employee at an age less than seventy years shall be deemed to require retirement at seventy years of age. Plans amended

R.S.O. 1980,
c. 418, s. 17,
re-enacted

3. Section 17 of the *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Age of
retirement

17. Every civil servant shall retire at the end of the month in which he attains the age of seventy years, but where, in the opinion of the Commission, special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for one or more periods not exceeding one year at a time thereafter.

Review by
employer

- 4.—(1) At any time after an employee attains the age of sixty-five, his employer, upon reviewing the employee's capability, taking into account his state of health, may determine that the employee is not able to adequately perform his duties.

Notice

- (2) Where an employer makes a determination under subsection (1), he shall give written notice of the determination to the employee and the employee shall retire at the end of the month in which he received the notice.

No penalty

- (3) Notwithstanding any provision in any Act or in any pension fund, plan or benefit, an employee who retires pursuant to a notice under subsection (2), shall not be liable to a penalty for early retirement.

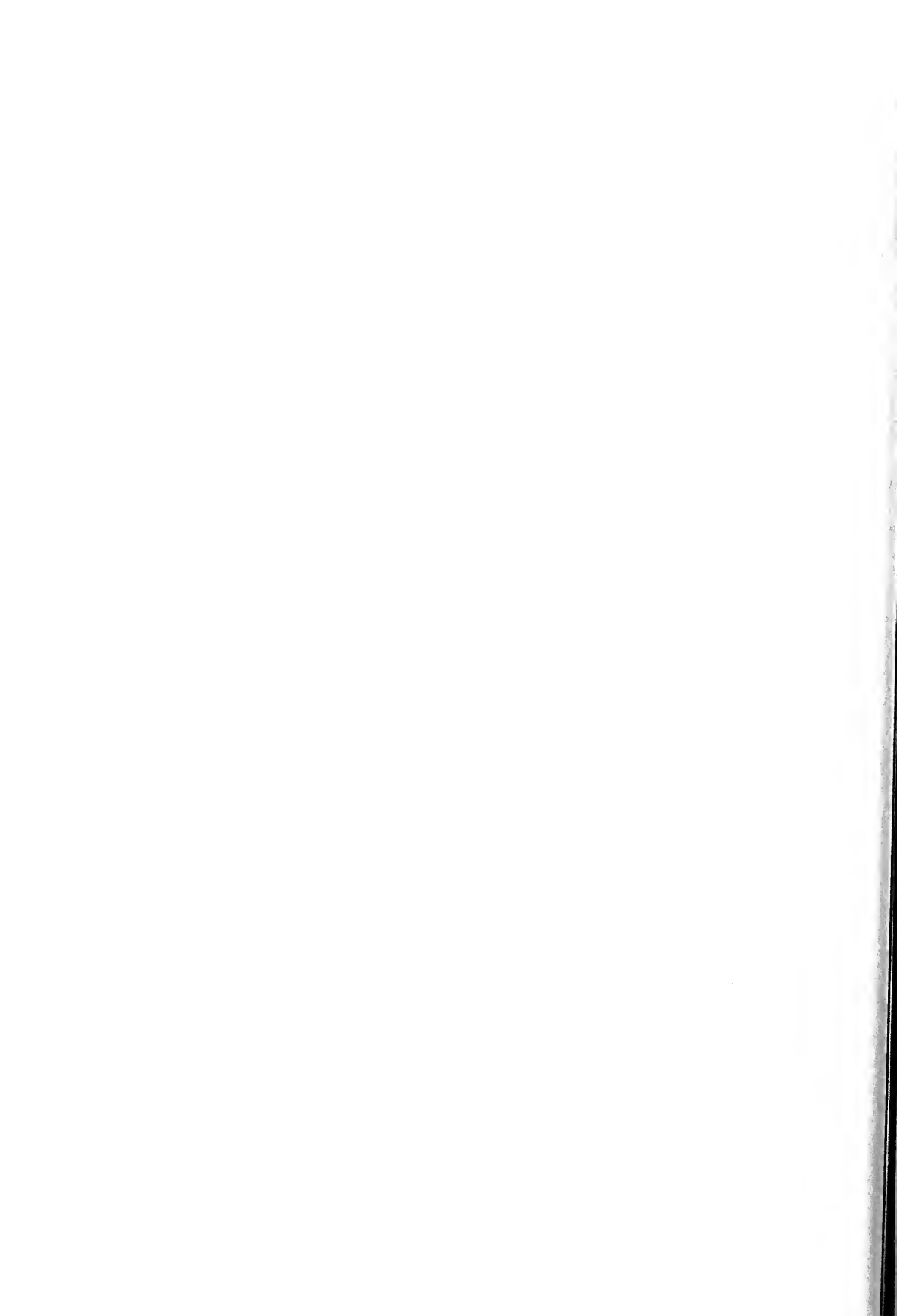
Commence-
ment

5. This Act comes into force on the 1st day of January, 1983.

Short title

6. The short title of this Act is the *Age of Retirement Act, 1982*.







An Act respecting
the Age of Mandatory Retirement

1st Reading

June 15th, 1982

2nd Reading

3rd Reading

MR. KOLYNN

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting Insured Services under the Ontario
Health Insurance Plan**

MR. PHILIP

EXPLANATORY NOTE

Self-explanatory.

BILL 148

1982

An Act respecting Insured Services under the Ontario Health Insurance Plan

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

1. The provision of prostheses and brassieres following a single or double mastectomy, on the prescription of a physician, may be prescribed by the regulations under the *Health Insurance Act* as an insured service for the purposes of that Act. Prostheses may be prescribed as insured services
R.S.O. 1980, c. 197
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Insured Health Services Act, 1982*. Short title

An Act respecting Insured Services under
the Ontario Health Insurance Plan

1st Reading

June 15th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend certain Acts respecting Regional Municipalities

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

EXPLANATORY NOTES

The Bill amends the ten Acts that govern the various regional municipalities and is divided into the following Parts:

Part		Page
I	— Durham	1
II	— Haldimand-Norfolk	4
III	— Halton	4
IV	— Hamilton-Wentworth	7
V	— Niagara	8
VI	— Ottawa-Carleton	8
VII	— Peel	11
VIII	— Sudbury	12
IX	— Waterloo	12
X	— York	13

The following amendments relate to all ten regional municipalities:

SECTIONS 2, 5, 8, 11, 14, 20, 23, 25, 28, 32. The amendments increase from 5 per cent to 8 per cent the interest rate to be allocated to the specific sum to be raised in each year in respect of sinking fund or term debentures so as to provide for the principal payment due at maturity.

The following amendments relate to all regional municipalities with the exception of Niagara, Waterloo and York:

SECTIONS 1, 4, 7, 10, 16, 22, 24. The effect is to make applicable the whole of section 30 of the *Public Utilities Act* where the treasurer of the regional municipality notifies the clerk of an area municipality of an amount owing by any person for the supply of water. That section makes the amount payable for the supply of a public utility a lien upon the interest of the owner or occupant of the land in respect of which it was supplied and provides for its entry on the collector's roll to be collected in the same way as municipal taxes are collected.

The following amendments relate to the regional municipalities of Niagara, Ottawa-Carleton, Waterloo and York:

SECTIONS 12, 18, 27 AND 30. The section proposed to be added in each case would permit the regional municipality to accept septic tank waste transported to its sewage works for disposal, and to charge for the receipt and disposal of that waste.

The following amendments relate to the regional municipalities of Durham and Halton:

SECTIONS 3 AND 9. The sections proposed to be re-enacted expand on the powers of the regional municipality in respect of solid waste disposal. The regional municipality now has the responsibility of receiving and disposing of waste and no area municipality is to provide facilities for that purpose. The additional powers to be conferred are,

- (a) no private person or municipality outside the region may set up a solid waste disposal facility in the region without the consent of the Regional Council but a refusal to grant consent may be referred to the Municipal Board, whose decision is final;
- (b) the Regional Council may prescribe truck routes on regional roads for hauling waste to a facility and the council of an area municipality may also do so for its roads, subject to the consent of the Regional Council;

- (c) the Regional Corporation is given powers similar to those found in section 67 of the *Municipality of Metropolitan Toronto Act* to erect, maintain and operate buildings, structures and machinery for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam.

The amendment referred to below affects only The Regional Municipality of Halton:

SECTION 6. Section 49 of the Regional Act requires an area municipality to notify the Regional Corporation when it intends to close a road. The Regional Council then may within sixty days notify the area council of its objection to the closing and thereupon the road is not to be closed except by agreement or, failing agreement, with the approval of the Municipal Board. The new subsection permits the area council to close the road upon being notified by the Regional Council that it does not object, rather than being required to wait for the expiry of the sixty-day period.

The amendment set out below affects only The Regional Municipality of Niagara:

SECTION 13. An error in an internal reference is corrected.

The amendments set out below affect only The Regional Municipality of Ottawa-Carleton:

SECTION 15. The amendment is complementary to that set out in section 21 of the Bill and provides that the Municipal Board may vary any order it may have made under subsection 153 (3a) of the Regional Act (dividing the school division comprised of Ottawa, Vanier and Rockcliffe Park into zones) when it makes an order dividing or redividing any one of those three municipalities into wards pursuant to an application brought under section 8 of the Regional Act.

SECTION 17. The subsection added dispenses with the necessity of obtaining Municipal Board approval where an area municipality imposes a sewer mill rate to defray the regional sewer levy imposed on it, provided the rate applies only to the property that is situate within the area of special benefit defined in the area municipality by the Regional Council.

SECTION 19. The subsection added dispenses with the necessity of obtaining Municipal Board approval where an area municipality imposes a special rate to defray the regional urban transit levy, provided the area or areas to be charged constitute all of the portion of the Urban Transit Area that is situate within the area municipality.

SECTION 21. Subsection 153 (3) of the Regional Act reads as follows:

(3) *Twelve members of the Ottawa Board shall be elected by the public school electors of the school division as follows,*

(a) *six members by a general vote of the public school electors in the City of Vanier, the Village of Rockcliffe Park and such wards of the City of Ottawa as the Ottawa Board determines; and*

(b) *six members by a general vote of the public school electors in the wards of the City of Ottawa not included in clause (a),*

and the Ottawa Board shall, by resolution, determine from time to time the wards of the City of Ottawa that shall be included with the City of Vanier and the Village of Rockcliffe Park for the purposes of clause (a)

and such a resolution shall remain in force until repealed by the Ottawa Board.

New subsection (3a) authorizes the Municipal Board, upon application by The Ottawa Board of Education or upon petition by 150 or more public school electors, to divide or redivide the school division (comprised of Ottawa, Vanier and Rockcliffe Park) into zones and to provide for matters consequent thereon. (See also the Note to section 15).

The amendments set out below affect only The Regional Municipality of Waterloo:

SECTION 26. A minor adjustment is made to the description of the boundary between the City of Cambridge and the Township of Woolwich.

SECTION 29. The Regional Corporation is given the powers set out in respect of the production and sale of products derived from domestic or industrial waste.

The following amendment relates to The Regional Municipality of York:

SECTION 31. An error in an internal reference is corrected.

BILL 149

1982

An Act to amend certain Acts respecting Regional Municipalities

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

PART I

REGIONAL MUNICIPALITY OF DURHAM

1. Subsection 52 (14) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out "subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply" in the sixth line and inserting in lieu thereof "section 30 of the *Public Utilities Act* applies". s. 52 (14),
amended

- 2.—(1) Subsection 110 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8". s. 110 (22),
amended

- (2) Clause 110 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8". s. 110
(45) (b),
amended

3. Section 144 of the said Act is repealed and the following substituted therefor: s. 144,
re-enacted
 - 144.—(1) In this section, "waste" includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpretation

 - (2) The Regional Corporation shall continue to provide facilities for the purpose of receiving, dumping and disposing of waste and no area municipality shall provide such facilities. Receiving and
disposing of
waste by
Regional
Corporation

 - (3) On and after the day this section comes into force, no facilities for the receiving, dumping and disposing of waste shall be provided in the Regional Area by any person or by any municipality, as defined in the *Municipal Affairs Act*, or by any other regional municipality or by a metropolitan municipality or by a Where consent
of Regional
Council
required
R.S.O. 1980,
c. 303

local board of a regional or metropolitan municipality without the consent of the Regional Council, which consent may be given upon such terms and conditions, including the payment of such compensation, as may be agreed upon.

Appeal to
O.M.B.

(4) Where the Regional Council refuses its consent under subsection (3), or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Powers of
Regional
Corporation

(5) For the purposes of subsection (2), the Regional Corporation may,

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of any province, and agency of either of them, a regional or metropolitan municipality, or local board thereof, or any person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land;
- (e) prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise, as the Regional Council considers appropriate in the circumstances; and
- (f) provide standards and regulations for vehicles or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

R.S.O. 1980,
c. 302, s. 210,
par. 129,
not to apply

(6) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the Regional Corporation.

Waste
facilities,
etc., vested
in Regional
Corporation

(7) All waste facilities and lands of a local municipality, to the extent that they were used for the purposes of receiving, dumping and disposing of waste on the 1st day of January, 1974, are vested in the Regional Corporation without compensation.

Routes on
regional roads

(8) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or

any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

(9) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

Routes on
area
municipality
roads

(10) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property that vested in the Regional Corporation under subsection (7) or a predecessor thereof.

Payment of
outstanding
debt

(11) If the Regional Corporation fails on or before the due date to make any payment required by subsection (10), the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Default

(12) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the Regional Corporation under this section, the Municipal Board may determine the matter and such determination is final and binding.

Settling
of doubts
by O.M.B.

(13) For the purposes of subsection (5), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications.

Application of
R.S.O. 1980,
c. 302, s. 210,
par. 84

(14) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

Powers of
Regional
Corporation
re manufacture
and sale of
products,
commodities,
etc., derived
from waste

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private

property with the consent of the owner of such private property; and

- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1980,
c. 309, not to
apply

(15) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (14).

PART II

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 74 (14),
amended

4. Subsection 74 (14) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth and seventh lines and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.

s. 92 (22),
amended

- 5.—(1) Subsection 92 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 92 (45) (b),
amended

- (2) Clause 92 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

PART III

REGIONAL MUNICIPALITY OF HALTON

s. 49,
amended

6. Section 49 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Where
Regional
Council
gives notice
of no objection

(2a) Where the Regional Council notifies the council of the area municipality that the Regional Council does not object to the stopping up, the Regional Council shall have no further right to object under subsection (2) and the council of the area municipality may proceed to pass a by-law for the stopping up of the highway or part thereof concerned.

s. 85 (14),
amended

7. Subsection 85 (14) of the said Act is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth line and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.

s. 103 (22),
amended

- 8.—(1) Subsection 103 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

(2) Clause 103 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 103 (45) (b), amended

9. Section 137 of the said Act is repealed and the following substituted therefor: s. 137, re-enacted

137.—(1) In this section, “waste” includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpretation

(2) The Regional Corporation shall continue to provide facilities for the purpose of receiving, dumping and disposing of waste and no area municipality shall provide such facilities. Receiving and disposing of waste by Regional Corporation

(3) On and after the day this section comes into force, no facilities for the receiving, dumping and disposing of waste shall be provided in the Regional Area by any person or by any municipality, as defined in the *Municipal Affairs Act*, or by any other regional municipality or by a metropolitan municipality or by a local board of a regional or metropolitan municipality without the consent of the Regional Council, which consent may be given upon such terms and conditions, including the payment of such compensation, as may be agreed upon. Where consent of Regional Council required
R.S.O. 1980, c. 303

(4) Where the Regional Council refuses its consent under subsection (3), or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final. Appeal to O.M.B.

(5) For the purposes of subsection (2), the Regional Corporation may, Powers of Regional Corporation

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of any province, and agency of either of them, a regional or metropolitan municipality, or local board thereof, or any person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land;

- (e) prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise, as the Regional Council considers appropriate in the circumstances; and
- (f) provide standards and regulations for vehicles or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

R.S.O. 1980,
c. 302, s. 210,
par. 129,
not to apply

Waste
facilities,
etc., vested in
Regional
Corporation

Routes on
regional roads

Routes on area
municipality
roads

Payment of
outstanding
debt

Default

Settling of
doubts by
O.M.B.

(6) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the Regional Corporation.

(7) All waste facilities and lands of a local municipality, to the extent that they were used for the purposes of receiving, dumping and disposing of waste on the 1st day of January, 1974, are vested in the Regional Corporation without compensation.

(8) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

(9) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

(10) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property that vested in the Regional Corporation under subsection (7) or a predecessor thereof.

(11) If the Regional Corporation fails on or before the due date to make any payment required by subsection (10), the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

(12) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the Regional Corporation under this section, the

Municipal Board may determine the matter and such determination is final and binding.

(13) For the purposes of subsection (5), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications. Application of R.S.O. 1980, c. 302, s. 210, par. 84

(14) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may, Powers of Regional Corporation re manufacture and sale of products, commodities, etc., derived from waste

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(15) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (14). R.S.O. 1980, c. 309, not to apply

PART IV

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

- 10.** Subsection 96 (14) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth line and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”. s. 96 (14), amended
- 11.**—(1) Subsection 114 (22) of the said Act is amended by striking out “5” in the third line and inserting in lieu thereof “8”. s. 114 (22), amended
- (2) Clause 114 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 114 (45) (b), amended

PART V

REGIONAL MUNICIPALITY OF NIAGARA

- s. 62a,
enacted
- 12.** The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:
- Disposal of
liquid or
solid
material
- 62a.—(1) The Regional Council may pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation.
- Terms and
conditions
- (2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.
- s. 124 (1),
amended
- 13.** Subsection 124 (1) of the said Act is amended by striking out “subsection 180 (4)” in the first line and inserting in lieu thereof “section 183”.
- s. 142 (22),
amended
- 14.**—(1) Subsection 142 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.
- s. 142 (45) (b),
amended
- (2) Clause 142 (45) (b) of the said Act is amended by striking out “5” in the sixth line and inserting in lieu thereof “8”.

PART VI

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

- s. 8,
amended
- 15.** Section 8 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:
- Variation, etc.,
by O.M.B. of
order made
under s. 153
(3a)
- (2) If an application is made under subsection (1) in respect of the City of Ottawa, the City of Vanier or the Village of Rockcliffe Park and an order of the Municipal Board is in effect under subsection 153 (3a), the Board may vary the order, rescind the order or rescind the order and make a new order as though it were acting on an application under subsection 153 (3a) and the varied order or new order shall be deemed to have been made under that subsection.

(3) Notice of an application to which subsection (2) applies shall be given to The Ottawa Board of Education in such manner as the Municipal Board directs. Notice of application

- 16.** Section 31 of the said Act is amended by adding thereto the following subsection: s. 31, amended

(13) The clerk of an area municipality shall, on notice to him by the treasurer of the Regional Corporation of an amount due in respect of the supply of water and by whom it is due and the lands on which a lien is claimed, enter the amount due upon the collector's roll of the area municipality and section 30 of the *Public Utilities Act* applies and the moneys collected shall be forwarded to the treasurer of the Regional Corporation. Entry by clerk on collector's roll
R.S.O. 1980, c. 423

- 17.** Section 39 of the said Act is amended by adding thereto the following subsection: s. 39, amended

(5) Notwithstanding subsection (4) of this section or section 218 of the *Municipal Act*, the approval of the Municipal Board is not required if the by-law to be passed by the council of the area municipality under section 218 for raising an amount in respect of a work, Where approval of O.M.B. not required
R.S.O. 1980, c. 302

(a) imposes a sewer rate computed solely by the method referred to in clause 218 (7) (d) of the *Municipal Act*; and

(b) applies only in respect of the same property as that which is situate within the area of special benefit defined in the area municipality in respect of that work by a by-law of the Regional Council in force under subsection (1) or (2),

as evidenced by a certificate to that effect signed by the clerk of the Regional Corporation.

- 18.** The said Act is amended by adding thereto the following section: s. 47a, enacted

47a.—(1) The Regional Council may pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation. Disposal of liquid or solid material

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material Terms and conditions

and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 79,
amended

- 19.** Section 79 of the said Act is amended by adding thereto the following subsection:

Where
approval
of O.M.B. not
required

(11a) Notwithstanding subsection (11), an area municipality may, without the approval of the Municipal Board, pass one or more by-laws to impose a special rate or rates in one or more defined areas of the area municipality to raise the whole or any part of the amount charged to that municipality provided that,

- (a) the defined area or areas constitute the entire portion of the Urban Transit Area that is situate within the area municipality; and
- (b) the by-law of the Regional Council passed under subsection (1) defining the Urban Transit Area is either final and binding under subsection (10) or thirty days have expired since the passing of the by-law or any amendments thereto and all appeals against the by-law or any such amendments have been finally disposed of,

as evidenced by a certificate to that effect signed by the clerk of the Regional Corporation.

s. 133 (23),
amended

- 20.**—(1) Subsection 133 (23) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 133 (46) (b),
amended

- (2) Clause 133 (46) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

s. 153,
amended

- 21.** Section 153 of the said Act is amended by adding thereto the following subsections:

Zones

(3a) Notwithstanding subsection (3), upon the application of the Ottawa Board authorized by a resolution thereof, or upon the application of petitioners in accordance with subsection (3d), the Municipal Board may, by order,

- (a) divide or redivide the school division into zones, and shall designate the name or number each zone shall bear and shall declare the date the division or redivision shall take effect;
- (b) alter or dissolve any or all of the zones created by an order under clause (a) and shall declare the date when such alterations or dissolutions shall take effect;

(c) provide that the public school electors in each zone created or altered under this subsection shall elect such number of members to the Ottawa Board as shall be specified in the order provided that the total number of members specified in the order is twelve; and

(d) notwithstanding the *Municipal Elections Act* or the *Education Act*, make such provisions as are considered necessary for the holding of elections of members to the Ottawa Board by electors in zones created or altered under this subsection. R.S.O. 1980,
cc. 308, 129

(3b) Notwithstanding clause (3a) (a) or (b), the Municipal Board may not create a zone under those clauses which contains part only of a ward of the City of Ottawa or of a ward of the City of Vanier or part only of the Village of Rockcliffe Park. Limitation

(3c) While a provision of an order of the Municipal Board authorized by clause (3a) (c) is in effect for purposes of an election, the members of the Ottawa Board to be elected at the election by public school electors shall be elected in accordance with the provision of the order and not in accordance with subsection (3). Election

(3d) A petition of 150 or more public school electors of the school division may be presented to the Ottawa Board requesting the Board to apply to the Municipal Board to divide or redivide the school division into zones or to alter or dissolve any or all of the existing zones created by an order of the Municipal Board, and if the Ottawa Board refuses or neglects to make the application within one month after the receipt by the Ottawa Board of the petition, the petitioners or any of them may apply to the Municipal Board for the division, redivision, alteration or dissolution, as the case may be. Petition

PART VII

REGIONAL MUNICIPALITY OF PEEL

22. Subsection 80 (14) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out "subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply" in the sixth and seventh lines and inserting in lieu thereof "section 30 of the *Public Utilities Act* applies". s. 80 (14),
amended

23.—(1) Subsection 98 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8". s. 98 (22),
amended

(2) Clause 98 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8". s. 98 (45) (b),
amended

PART VIII

REGIONAL MUNICIPALITY OF SUDBURY

s. 25 (14),
amended

- 24.** Subsection 25 (14) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth and seventh lines and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.

s. 84 (22),
amended

- 25.**—(1) Subsection 84 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 84 (45) (b),
amended

- (2) Clause 84 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

PART IX

REGIONAL MUNICIPALITY OF WATERLOO

s. 2 (1) (g),
amended

- 26.** Clause 2 (1) (g) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out,

“COMMENCING at a point in the easterly boundary of the Township of Waterloo where it is intersected by the easterly prolongation of the northerly limit of County Road Number 31;

THENCE westerly to and along the northerly limit of the said County Road Number 31 to the easterly limit of County Road Number 17;”

in the seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof:

“COMMENCING at a point in the easterly boundary of the Township of Waterloo where it is intersected by the northerly limit of County Road Number 31;

THENCE westerly along the northerly limit of the said County Road Number 31 to the easterly limit of County Road Number 17;”.

s. 59a,
enacted

- 27.** The said Act is amended by adding thereto the following section:

Disposal of
liquid or
solid
material

59a.—(1) The Regional Council may pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Cor-

poration and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

Terms and conditions

28.—(1) Subsection 132 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”. s. 132 (22), amended

(2) Clause 132 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 132 (45) (b), amended

29. Section 169 of the said Act is amended by adding thereto the following subsections: s. 169, amended

(7) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may, Products from industrial waste, etc.

(a) enter into agreements with any person;

(b) carry on investigations, experiments, research or development;

(c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and

(d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(8) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (7). R.S.O. 1980, c. 309, not to apply

PART X

REGIONAL MUNICIPALITY OF YORK

30. The *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 61a, enacted

Disposal of
liquid or
solid
material

61a.—(1) The Regional Council may pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 123 (5),
amended

31. Subsection 123 (5) is amended by striking out “122” in the second line and inserting in lieu thereof “121”.

s. 134 (22),
amended

32.—(1) Subsection 134 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 134 (45) (b),
amended

(2) Clause 134 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

Commence-
ment

33.—(1) This Act, except section 29, comes into force on the day it receives Royal Assent.

Idem

(2) Section 29 shall be deemed to have come into force on the 1st day of January, 1982.

Short title

34. The short title of this Act is the *Regional Municipalities Amendment Act, 1982*.



An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

June 17th, 1982

2nd Reading

3rd Reading

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

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend certain Acts respecting Regional Municipalities

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

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

EXPLANATORY NOTES

The Bill amends the ten Acts that govern the various regional municipalities and is divided into the following Parts:

Part		Page
I	— Durham	1
II	— Haldimand-Norfolk	4
III	— Halton	4
IV	— Hamilton-Wentworth	7
V	— Niagara	8
VI	— Ottawa-Carleton	8
VII	— Peel	11
VIII	— Sudbury	12
IX	— Waterloo	12
X	— York	13

The following amendments relate to all ten regional municipalities:

SECTIONS 2, 5, 8, 11, 14, 20, 23, 25, 28, 32. The amendments increase from 5 per cent to 8 per cent the interest rate to be allocated to the specific sum to be raised in each year in respect of sinking fund or term debentures so as to provide for the principal payment due at maturity.

The following amendments relate to all regional municipalities with the exception of Niagara, Waterloo and York:

SECTIONS 1, 4, 7, 10, 16, 22, 24. The effect is to make applicable the whole of section 30 of the *Public Utilities Act* where the treasurer of the regional municipality notifies the clerk of an area municipality of an amount owing by any person for the supply of water. That section makes the amount payable for the supply of a public utility a lien upon the interest of the owner or occupant of the land in respect of which it was supplied and provides for its entry on the collector's roll to be collected in the same way as municipal taxes are collected.

The following amendments relate to the regional municipalities of Niagara, Ottawa-Carleton, Waterloo and York:

SECTIONS 12, 18, 27 AND 30. The section proposed to be added in each case confirms the authority of the regional municipality to accept septic tank waste transported to its sewage works for disposal, and to charge for the receipt and disposal of that waste.

The following amendments relate to the regional municipalities of Durham and Halton:

SECTIONS 3 AND 9. The sections proposed to be re-enacted expand on the powers of the regional municipality in respect of solid waste disposal. The regional municipality now has the responsibility of receiving and disposing of waste and no area municipality is to provide facilities for that purpose. The additional powers to be conferred are,

- (a) no private person or municipality outside the region may set up a solid waste disposal facility in the region without the consent of the Regional Council but a refusal to grant consent may be referred to the Municipal Board, whose decision is final;
- (b) the Regional Council may prescribe truck routes on regional roads for hauling waste to a facility and the council of an area municipality may also do so for its roads, subject to the consent of the Regional Council;

- (c) the Regional Corporation is given powers similar to those found in section 67 of the *Municipality of Metropolitan Toronto Act* to erect, maintain and operate buildings, structures and machinery for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam.

The amendment referred to below affects only The Regional Municipality of Halton:

SECTION 6. Section 49 of the Regional Act requires an area municipality to notify the Regional Corporation when it intends to close a road. The Regional Council then may within sixty days notify the area council of its objection to the closing and thereupon the road is not to be closed except by agreement or, failing agreement, with the approval of the Municipal Board. The new subsection permits the area council to close the road upon being notified by the Regional Council that it does not object, rather than being required to wait for the expiry of the sixty-day period.

The amendment set out below affects only The Regional Municipality of Niagara:

SECTION 13. An error in an internal reference is corrected.

The amendments set out below affect only The Regional Municipality of Ottawa-Carleton:

SECTION 15. The amendment is complementary to that set out in section 21 of the Bill and provides that the Municipal Board may vary any order it may have made under subsection 153 (3a) of the Regional Act (dividing the school division comprised of Ottawa, Vanier and Rockcliffe Park into zones) when it makes an order dividing or redividing any one of those three municipalities into wards pursuant to an application brought under section 8 of the Regional Act.

SECTION 17. The subsection added dispenses with the necessity of obtaining Municipal Board approval where an area municipality imposes a sewer mill rate to defray the regional sewer levy imposed on it, provided the rate applies only to the property that is situate within the area of special benefit defined in the area municipality by the Regional Council.

SECTION 19. The subsection added dispenses with the necessity of obtaining Municipal Board approval where an area municipality imposes a special rate to defray the regional urban transit levy, provided the area or areas to be charged constitute all of the portion of the Urban Transit Area that is situate within the area municipality.

SECTION 21. Subsection 153 (3) of the Regional Act reads as follows:

(3) *Twelve members of the Ottawa Board shall be elected by the public school electors of the school division as follows,*

- (a) *six members by a general vote of the public school electors in the City of Vanier, the Village of Rockcliffe Park and such wards of the City of Ottawa as the Ottawa Board determines; and*
- (b) *six members by a general vote of the public school electors in the wards of the City of Ottawa not included in clause (a),*

and the Ottawa Board shall, by resolution, determine from time to time the wards of the City of Ottawa that shall be included with the City of Vanier and the Village of Rockcliffe Park for the purposes of clause (a)

and such a resolution shall remain in force until repealed by the Ottawa Board.

New subsection (3a) authorizes the Municipal Board, upon application by The Ottawa Board of Education or upon petition by 150 or more public school electors, to divide or redivide the school division (comprised of Ottawa, Vanier and Rockcliffe Park) into zones and to provide for matters consequent thereon. (See also the Note to section 15).

The amendments set out below affect only The Regional Municipality of Waterloo:

SECTION 26. A minor adjustment is made to the description of the boundary between the City of Cambridge and the Township of Woolwich.

SECTION 29. The Regional Corporation is given the powers set out in respect of the production and sale of products derived from domestic or industrial waste.

The following amendment relates to The Regional Municipality of York:

SECTION 31. An error in an internal reference is corrected.

BILL 149

1982

An Act to amend certain Acts respecting Regional Municipalities

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

PART I

REGIONAL MUNICIPALITY OF DURHAM

1. Subsection 52 (14) of the *Regional Municipality of Durham Act*, s. 52 (14),
being chapter 434 of the Revised Statutes of Ontario, 1980, is amended
by striking out "subsections 30 (2), (3) and (4) of the
Public Utilities Act apply" in the sixth line and inserting in lieu
thereof "section 30 of the *Public Utilities Act* applies". amended

- 2.—(1) Subsection 110 (22) of the said Act is amended by striking out s. 110 (22),
"5" in the fourth line and inserting in lieu thereof "8". amended

- (2) Clause 110 (45) (b) of the said Act is amended by striking out s. 110
"5" in the fifth line and inserting in lieu thereof "8". (45) (b),
amended

3. Section 144 of the said Act is repealed and the following s. 144,
substituted therefor: re-enacted

144.—(1) In this section, "waste" includes ashes, garbage, Interpretation
refuse, domestic waste, industrial solid waste or municipal
refuse, and such other wastes as may be designated by by-law of
the Regional Council.

(2) The Regional Corporation shall continue to provide Receiving and
facilities for the purpose of receiving, dumping and disposing of waste by
waste and no area municipality shall provide such facilities. disposing of
waste by
Regional
Corporation

(3) On and after the day this section comes into force, no Where consent
facilities for the receiving, dumping and disposing of waste shall be of Regional
provided in the Regional Area by any person or by any municipi- Council
pality, as defined in the *Municipal Affairs Act*, or by any other required
regional municipality or by a metropolitan municipality or by a R.S.O. 1980,
c. 303

local board of a regional or metropolitan municipality without the consent of the Regional Council, which consent may be given upon such terms and conditions, including the payment of such compensation, as may be agreed upon.

Appeal to
O.M.B.

(4) Where the Regional Council refuses its consent under subsection (3), or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Powers of
Regional
Corporation

(5) For the purposes of subsection (2), the Regional Corporation may,

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of any province, and agency of either of them, a regional or metropolitan municipality, or local board thereof, or any person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land;
- (e) prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise, as the Regional Council considers appropriate in the circumstances; and
- (f) provide standards and regulations for vehicles or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

R.S.O. 1980,
c. 302, s. 210,
par. 129,
not to apply

(6) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the Regional Corporation.

Waste
facilities,
etc., vested
in Regional
Corporation

(7) All waste facilities and lands of a local municipality, to the extent that they were used for the purposes of receiving, dumping and disposing of waste on the 1st day of January, 1974, are vested in the Regional Corporation without compensation.

Routes on
regional roads

(8) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or

any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

(9) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

(10) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property that vested in the Regional Corporation under subsection (7) or a predecessor thereof.

(11) If the Regional Corporation fails on or before the due date to make any payment required by subsection (10), the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

(12) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the Regional Corporation under this section, the Municipal Board may determine the matter and such determination is final and binding.

(13) For the purposes of subsection (5), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications.

(14) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private

Routes on
area
municipality
roads

Payment of
outstanding
debt

Default

Settling
of doubts
by O.M.B.

Application of
R.S.O. 1980,
c. 302, s. 210,
par. 84

Powers of
Regional
Corporation
re manufacture
and sale of
products,
commodities,
etc., derived
from waste

property with the consent of the owner of such private property; and

- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1980,
c. 309, not to
apply

(15) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (14).

PART II

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 74 (14),
amended

4. Subsection 74 (14) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth and seventh lines and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.

s. 92 (22),
amended

- 5.—(1) Subsection 92 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 92 (45) (b),
amended

- (2) Clause 92 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

PART III

REGIONAL MUNICIPALITY OF HALTON

s. 49,
amended

6. Section 49 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Where
Regional
Council
gives notice
of no objection

(2a) Where the Regional Council notifies the council of the area municipality that the Regional Council does not object to the stopping up, the Regional Council shall have no further right to object under subsection (2) and the council of the area municipality may proceed to pass a by-law for the stopping up of the highway or part thereof concerned.

s. 85 (14),
amended

7. Subsection 85 (14) of the said Act is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth line and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.

s. 103 (22),
amended

- 8.—(1) Subsection 103 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

(2) Clause 103 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8". s. 103 (45) (b), amended

9. Section 137 of the said Act is repealed and the following substituted therefor: s. 137, re-enacted

137.—(1) In this section, "waste" includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council. Interpretation

(2) The Regional Corporation shall continue to provide facilities for the purpose of receiving, dumping and disposing of waste and no area municipality shall provide such facilities. Receiving and disposing of waste by Regional Corporation

(3) On and after the day this section comes into force, no facilities for the receiving, dumping and disposing of waste shall be provided in the Regional Area by any person or by any municipality, as defined in the *Municipal Affairs Act*, or by any other regional municipality or by a metropolitan municipality or by a local board of a regional or metropolitan municipality without the consent of the Regional Council, which consent may be given upon such terms and conditions, including the payment of such compensation, as may be agreed upon. Where consent of Regional Council required
R.S.O. 1980, c. 303

(4) Where the Regional Council refuses its consent under subsection (3), or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final. Appeal to O.M.B.

(5) For the purposes of subsection (2), the Regional Corporation may, Powers of Regional Corporation

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of any province, and agency of either of them, a regional or metropolitan municipality, or local board thereof, or any person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land;

- (e) prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise, as the Regional Council considers appropriate in the circumstances; and
- (f) provide standards and regulations for vehicles or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.
- (6) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the Regional Corporation.
- (7) All waste facilities and lands of a local municipality, to the extent that they were used for the purposes of receiving, dumping and disposing of waste on the 1st day of January, 1974, are vested in the Regional Corporation without compensation.
- (8) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.
- (9) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.
- (10) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property that vested in the Regional Corporation under subsection (7) or a predecessor thereof.
- (11) If the Regional Corporation fails on or before the due date to make any payment required by subsection (10), the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.
- (12) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the Regional Corporation under this section, the

R.S.O. 1980,
c. 302, s. 210,
par. 129,
not to apply

Waste
facilities,
etc., vested in
Regional
Corporation

Routes on
regional roads

Routes on area
municipality
roads

Payment of
outstanding
debt

Default

Settling of
doubts by
O.M.B.

Municipal Board may determine the matter and such determination is final and binding.

(13) For the purposes of subsection (5), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications. Application of R.S.O. 1980, c. 302, s. 210, par. 84

(14) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may, Powers of Regional Corporation re manufacture and sale of products, commodities, etc., derived from waste

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(15) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (14). R.S.O. 1980, c. 309, not to apply

PART IV

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

- 10.** Subsection 96 (14) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply" in the sixth line and inserting in lieu thereof "section 30 of the *Public Utilities Act* applies". s. 96 (14), amended
- 11.**—(1) Subsection 114 (22) of the said Act is amended by striking out "5" in the third line and inserting in lieu thereof "8". s. 114 (22), amended
- (2) Clause 114 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8". s. 114 (45) (b), amended

PART V

REGIONAL MUNICIPALITY OF NIAGARA

s. 62a,
enacted

- 12.** The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Disposal of
liquid or
solid
material

62a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 124 (1),
amended

- 13.** Subsection 124 (1) of the said Act is amended by striking out “subsection 180 (4)” in the first line and inserting in lieu thereof “section 183”.

s. 142 (22),
amended

- 14.**—(1) Subsection 142 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 142 (45) (b),
amended

(2) Clause 142 (45) (b) of the said Act is amended by striking out “5” in the sixth line and inserting in lieu thereof “8”.

PART VI

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

s. 8,
amended

- 15.** Section 8 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

Variation, etc.,
by O.M.B. of
order made
under s. 153
(3a)

(2) If an application is made under subsection (1) in respect of the City of Ottawa, the City of Vanier or the Village of Rockcliffe Park and an order of the Municipal Board is in effect under subsection 153 (3a), the Board may vary the order, rescind the order or rescind the order and make a new order as though it were acting on an application under subsection 153 (3a) and the varied order or new order shall be deemed to have been made under that subsection.

(3) Notice of an application to which subsection (2) applies shall be given to The Ottawa Board of Education in such manner as the Municipal Board directs. Notice of application

16. Section 31 of the said Act is amended by adding thereto the following subsection: s. 31, amended

(13) The clerk of an area municipality shall, on notice to him by the treasurer of the Regional Corporation of an amount due in respect of the supply of water and by whom it is due and the lands on which a lien is claimed, enter the amount due upon the collector's roll of the area municipality and section 30 of the *Public Utilities Act* applies and the moneys collected shall be forwarded to the treasurer of the Regional Corporation. Entry by clerk on collector's roll
R.S.O. 1980, c. 423

17. Section 39 of the said Act is amended by adding thereto the following subsection: s. 39, amended

(5) Notwithstanding subsection (4) of this section or section 218 of the *Municipal Act*, the approval of the Municipal Board is not required if the by-law to be passed by the council of the area municipality under section 218 for raising an amount in respect of a work, Where approval of O.M.B. not required
R.S.O. 1980, c. 302

(a) imposes a sewer rate computed solely by the method referred to in clause 218 (7) (d) of the *Municipal Act*; and

(b) applies only in respect of the same property as that which is situate within the area of special benefit defined in the area municipality in respect of that work by a by-law of the Regional Council in force under subsection (1) or (2),

as evidenced by a certificate to that effect signed by the clerk of the Regional Corporation.

18. The said Act is amended by adding thereto the following section: s. 47a, enacted

47a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation. Disposal of liquid or solid material

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material Terms and conditions

and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 79,
amended

19. Section 79 of the said Act is amended by adding thereto the following subsection:

Where
approval
of O.M.B. not
required

(11*a*) Notwithstanding subsection (11), an area municipality may, without the approval of the Municipal Board, pass one or more by-laws to impose a special rate or rates in one or more defined areas of the area municipality to raise the whole or any part of the amount charged to that municipality provided that,

(*a*) the defined area or areas constitute the entire portion of the Urban Transit Area that is situate within the area municipality; and

(*b*) the by-law of the Regional Council passed under subsection (1) defining the Urban Transit Area is either final and binding under subsection (10) or thirty days have expired since the passing of the by-law or any amendments thereto and all appeals against the by-law or any such amendments have been finally disposed of,

as evidenced by a certificate to that effect signed by the clerk of the Regional Corporation.

s. 133 (23),
amended

20.—(1) Subsection 133 (23) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 133 (46) (*b*),
amended

(2) Clause 133 (46) (*b*) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

s. 153,
amended

21. Section 153 of the said Act is amended by adding thereto the following subsections:

Zones

(3*a*) Notwithstanding subsection (3), upon the application of the Ottawa Board authorized by a resolution thereof, or upon the application of petitioners in accordance with subsection (3*d*), the Municipal Board may, by order,

(*a*) divide or redivide the school division into zones, and shall designate the name or number each zone shall bear and shall declare the date the division or redivision shall take effect;

(*b*) alter or dissolve any or all of the zones created by an order under clause (*a*) and shall declare the date when such alterations or dissolutions shall take effect;

(c) provide that the public school electors in each zone created or altered under this subsection shall elect such number of members to the Ottawa Board as shall be specified in the order provided that the total number of members specified in the order is twelve; and

(d) notwithstanding the *Municipal Elections Act* or the *Education Act*, make such provisions as are considered necessary for the holding of elections of members to the Ottawa Board by electors in zones created or altered under this subsection. R.S.O. 1980, cc. 308, 129

(3b) Notwithstanding clause (3a) (a) or (b), the Municipal Board may not create a zone under those clauses which contains part only of a ward of the City of Ottawa or of a ward of the City of Vanier or part only of the Village of Rockcliffe Park. Limitation

(3c) While a provision of an order of the Municipal Board authorized by clause (3a) (c) is in effect for purposes of an election, the members of the Ottawa Board to be elected at the election by public school electors shall be elected in accordance with the provision of the order and not in accordance with subsection (3). Election

(3d) A petition of 150 or more public school electors of the school division may be presented to the Ottawa Board requesting the Board to apply to the Municipal Board to divide or redivide the school division into zones or to alter or dissolve any or all of the existing zones created by an order of the Municipal Board, and if the Ottawa Board refuses or neglects to make the application within one month after the receipt by the Ottawa Board of the petition, the petitioners or any of them may apply to the Municipal Board for the division, redivision, alteration or dissolution, as the case may be. Petition

PART VII

REGIONAL MUNICIPALITY OF PEEL

22. Subsection 80 (14) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out "subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply" in the sixth and seventh lines and inserting in lieu thereof "section 30 of the *Public Utilities Act* applies". s. 80 (14), amended

23.—(1) Subsection 98 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8". s. 98 (22), amended

(2) Clause 98 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8". s. 98 (45) (b), amended

PART VIII

REGIONAL MUNICIPALITY OF SUDBURY

- s. 25 (14),
amended
- 24.** Subsection 25 (14) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth and seventh lines and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.
- s. 84 (22),
amended
- 25.**—(1) Subsection 84 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.
- s. 84 (45) (b),
amended
- (2) Clause 84 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

PART IX

REGIONAL MUNICIPALITY OF WATERLOO

- s. 2 (1) (g),
amended
- 26.** Clause 2 (1) (g) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out,

“COMMENCING at a point in the easterly boundary of the Township of Waterloo where it is intersected by the easterly prolongation of the northerly limit of County Road Number 31;

THENCE westerly to and along the northerly limit of the said County Road Number 31 to the easterly limit of County Road Number 17;”

in the seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof:

“COMMENCING at a point in the easterly boundary of the Township of Waterloo where it is intersected by the northerly limit of County Road Number 31;

THENCE westerly along the northerly limit of the said County Road Number 31 to the easterly limit of County Road Number 17;”.

s. 59a,
enacted

- 27.** The said Act is amended by adding thereto the following section:

Disposal of
liquid or
solid
material

59a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation

and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

28.—(1) Subsection 132 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”. s. 132 (22), amended

(2) Clause 132 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 132 (45) (b), amended

29. Section 169 of the said Act is amended by adding thereto the following subsections: s. 169, amended

(7) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may, Products from industrial waste, etc.

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(8) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (7). R.S.O. 1980, c. 309, not to apply

PART X

REGIONAL MUNICIPALITY OF YORK

30. The *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 61a, enacted

Disposal of
liquid or
solid
material

61a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 123 (5),
amended

31. Subsection 123 (5) is amended by striking out “122” in the second line and inserting in lieu thereof “121”.

s. 134 (22),
amended

32.—(1) Subsection 134 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 134 (45) (b),
amended

(2) Clause 134 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

Commence-
ment

33.—(1) This Act, except section 29, comes into force on the day it receives Royal Assent.

Idem

(2) Section 29 shall be deemed to have come into force on the 1st day of January, 1982.

Short title

34. The short title of this Act is the *Regional Municipalities Amendment Act, 1982*.



An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

June 17th, 1982

2nd Reading

October 21st, 1982

3rd Reading

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

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

BILL 149

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend certain Acts respecting Regional Municipalities

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

An Act to amend certain Acts respecting Regional Municipalities

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

PART I

REGIONAL MUNICIPALITY OF DURHAM

1. Subsection 52 (14) of the *Regional Municipality of Durham Act*, s. 52 (14),
being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth line and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.
amended

- 2.—(1) Subsection 110 (22) of the said Act is amended by striking out s. 110 (22),
“5” in the fourth line and inserting in lieu thereof “8”.
amended

- (2) Clause 110 (45) (b) of the said Act is amended by striking out s. 110
“5” in the fifth line and inserting in lieu thereof “8”.
(45) (b),
amended

3. Section 144 of the said Act is repealed and the following s. 144,
substituted therefor: re-enacted
 - 144.—(1) In this section, “waste” includes ashes, garbage, Interpretation
refuse, domestic waste, industrial solid waste or municipal
refuse, and such other wastes as may be designated by by-law of
the Regional Council.

 - (2) The Regional Corporation shall continue to provide Receiving and
facilities for the purpose of receiving, dumping and disposing of waste by
waste and no area municipality shall provide such facilities. Regional
Corporation

 - (3) On and after the day this section comes into force, no Where consent
facilities for the receiving, dumping and disposing of waste shall be of Regional
provided in the Regional Area by any person or by any municipi- Council
pality, as defined in the *Municipal Affairs Act*, or by any other required
regional municipality or by a metropolitan municipality or by a R.S.O. 1980,
c. 303

local board of a regional or metropolitan municipality without the consent of the Regional Council, which consent may be given upon such terms and conditions, including the payment of such compensation, as may be agreed upon.

Appeal to
O.M.B.

(4) Where the Regional Council refuses its consent under subsection (3), or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Powers of
Regional
Corporation

(5) For the purposes of subsection (2), the Regional Corporation may,

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of any province, and agency of either of them, a regional or metropolitan municipality, or local board thereof, or any person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land;
- (e) prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise, as the Regional Council considers appropriate in the circumstances; and
- (f) provide standards and regulations for vehicles or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

R.S.O. 1980,
c. 302, s. 210,
par. 129,
not to apply

Waste
facilities,
etc., vested
in Regional
Corporation

(6) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the Regional Corporation.

(7) All waste facilities and lands of a local municipality, to the extent that they were used for the purposes of receiving, dumping and disposing of waste on the 1st day of January, 1974, are vested in the Regional Corporation without compensation.

Routes on
regional roads

(8) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or

any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

(9) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

Routes on area municipality roads

(10) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property that vested in the Regional Corporation under subsection (7) or a predecessor thereof.

Payment of outstanding debt

(11) If the Regional Corporation fails on or before the due date to make any payment required by subsection (10), the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Default

(12) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the Regional Corporation under this section, the Municipal Board may determine the matter and such determination is final and binding.

Settling of doubts by O.M.B.

(13) For the purposes of subsection (5), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications.

Application of R.S.O. 1980, c. 302, s. 210, par. 84

(14) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

Powers of Regional Corporation re manufacture and sale of products, commodities, etc., derived from waste

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private

property with the consent of the owner of such private property; and

- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1980,
c. 309, not to
apply

(15) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (14).

PART II

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

s. 74 (14),
amended

4. Subsection 74 (14) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out "subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply" in the sixth and seventh lines and inserting in lieu thereof "section 30 of the *Public Utilities Act* applies".

s. 92 (22),
amended

- 5.—(1) Subsection 92 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8".

s. 92 (45) (b),
amended

- (2) Clause 92 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8".

PART III

REGIONAL MUNICIPALITY OF HALTON

s. 49,
amended

6. Section 49 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Where
Regional
Council
gives notice
of no objection

(2a) Where the Regional Council notifies the council of the area municipality that the Regional Council does not object to the stopping up, the Regional Council shall have no further right to object under subsection (2) and the council of the area municipality may proceed to pass a by-law for the stopping up of the highway or part thereof concerned.

s. 85 (14),
amended

7. Subsection 85 (14) of the said Act is amended by striking out "subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply" in the sixth line and inserting in lieu thereof "section 30 of the *Public Utilities Act* applies".

s. 103 (22),
amended

- 8.—(1) Subsection 103 (22) of the said Act is amended by striking out "5" in the fourth line and inserting in lieu thereof "8".

(2) Clause 103 (45) (b) of the said Act is amended by striking out "5" in the fifth line and inserting in lieu thereof "8".

s. 103 (45) (b),
amended

9. Section 137 of the said Act is repealed and the following substituted therefor:

s. 137,
re-enacted

137.—(1) In this section, "waste" includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other wastes as may be designated by by-law of the Regional Council.

Interpretation

(2) The Regional Corporation shall continue to provide facilities for the purpose of receiving, dumping and disposing of waste and no area municipality shall provide such facilities.

Receiving and
disposing of
waste by
Regional
Corporation

(3) On and after the day this section comes into force, no facilities for the receiving, dumping and disposing of waste shall be provided in the Regional Area by any person or by any municipality, as defined in the *Municipal Affairs Act*, or by any other regional municipality or by a metropolitan municipality or by a local board of a regional or metropolitan municipality without the consent of the Regional Council, which consent may be given upon such terms and conditions, including the payment of such compensation, as may be agreed upon.

Where consent
of Regional
Council
required

R.S.O. 1980,
c. 303

(4) Where the Regional Council refuses its consent under subsection (3), or the applicant therefor and the Regional Council fail to agree on the terms and conditions related to such consent, the applicant may appeal to the Municipal Board who shall hear and determine the matter, and the Board may impose such terms and conditions as the Board considers appropriate and the decision of the Board is final.

Appeal to
O.M.B.

(5) For the purposes of subsection (2), the Regional Corporation may,

Powers of
Regional
Corporation

- (a) acquire and use land;
- (b) erect, maintain and operate facilities for the purpose of receiving, dumping, treating and disposing of waste;
- (c) contract with Her Majesty in right of Canada, Her Majesty in right of any province, and agency of either of them, a regional or metropolitan municipality, or local board thereof, or any person for such purposes;
- (d) prohibit or regulate the dumping, treating and disposing of waste, or any class or classes thereof, upon such land;

(e) prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise, as the Regional Council considers appropriate in the circumstances; and

(f) provide standards and regulations for vehicles or any class or classes thereof, used for the haulage of waste to any waste facility located in the Regional Area.

R.S.O. 1980,
c. 302, s. 210,
par. 129,
not to apply

(6) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the Regional Corporation.

Waste
facilities,
etc., vested in
Regional
Corporation

(7) All waste facilities and lands of a local municipality, to the extent that they were used for the purposes of receiving, dumping and disposing of waste on the 1st day of January, 1974, are vested in the Regional Corporation without compensation.

Routes on
regional roads

(8) The Regional Council may by by-law prescribe one or more routes on specified regional roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in the Regional Area, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

Routes on area
municipality
roads

(9) Subject to the approval of the Regional Council, the council of an area municipality may by by-law prescribe one or more routes on specified area municipality roads to be used by vehicles, or any class or classes thereof, in hauling waste to any waste facility located in such area municipality, and any such by-law may provide different restrictions by reference to the days and times set forth in the by-law.

Payment of
outstanding
debt

(10) The Regional Corporation shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property that vested in the Regional Corporation under subsection (7) or a predecessor thereof.

Default

(11) If the Regional Corporation fails on or before the due date to make any payment required by subsection (10), the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Settling of
doubts by
O.M.B.

(12) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the Regional Corporation under this section, the

Municipal Board may determine the matter and such determination is final and binding.

(13) For the purposes of subsection (5), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications. Application of R.S.O. 1980, c. 302, s. 210, par. 84

(14) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may, Powers of Regional Corporation re manufacture and sale of products, commodities, etc., derived from waste

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(15) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (14). R.S.O. 1980, c. 309, not to apply

PART IV

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

10. Subsection 96 (14) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth line and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”. s. 96 (14), amended

11.—(1) Subsection 114 (22) of the said Act is amended by striking out “5” in the third line and inserting in lieu thereof “8”. s. 114 (22), amended

(2) Clause 114 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 114 (45) (b), amended

PART V

REGIONAL MUNICIPALITY OF NIAGARA

s. 62a,
enacted

- 12.** The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Disposal of
liquid or
solid
material

62a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 124 (1),
amended

- 13.** Subsection 124 (1) of the said Act is amended by striking out “subsection 180 (4)” in the first line and inserting in lieu thereof “section 183”.

s. 142 (22),
amended

- 14.**—(1) Subsection 142 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 142 (45) (b),
amended

(2) Clause 142 (45) (b) of the said Act is amended by striking out “5” in the sixth line and inserting in lieu thereof “8”.

PART VI

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

s. 8,
amended

- 15.** Section 8 of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

Variation, etc.,
by O.M.B. of
order made
under s. 153
(3a)

(2) If an application is made under subsection (1) in respect of the City of Ottawa, the City of Vanier or the Village of Rockcliffe Park and an order of the Municipal Board is in effect under subsection 153 (3a), the Board may vary the order, rescind the order or rescind the order and make a new order as though it were acting on an application under subsection 153 (3a) and the varied order or new order shall be deemed to have been made under that subsection.

(3) Notice of an application to which subsection (2) applies shall be given to The Ottawa Board of Education in such manner as the Municipal Board directs. Notice of application

- 16.** Section 31 of the said Act is amended by adding thereto the following subsection: s. 31, amended

(13) The clerk of an area municipality shall, on notice to him by the treasurer of the Regional Corporation of an amount due in respect of the supply of water and by whom it is due and the lands on which a lien is claimed, enter the amount due upon the collector's roll of the area municipality and section 30 of the *Public Utilities Act* applies and the moneys collected shall be forwarded to the treasurer of the Regional Corporation. Entry by clerk on collector's roll
R.S.O. 1980, c. 423

- 17.** Section 39 of the said Act is amended by adding thereto the following subsection: s. 39, amended

(5) Notwithstanding subsection (4) of this section or section 218 of the *Municipal Act*, the approval of the Municipal Board is not required if the by-law to be passed by the council of the area municipality under section 218 for raising an amount in respect of a work, Where approval of O.M.B. not required
R.S.O. 1980, c. 302

(a) imposes a sewer rate computed solely by the method referred to in clause 218 (7) (d) of the *Municipal Act*; and

(b) applies only in respect of the same property as that which is situate within the area of special benefit defined in the area municipality in respect of that work by a by-law of the Regional Council in force under subsection (1) or (2),

as evidenced by a certificate to that effect signed by the clerk of the Regional Corporation.

- 18.** The said Act is amended by adding thereto the following section: s. 47a, enacted

47a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation. Disposal of liquid or solid material

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material Terms and conditions

and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 79,
amended

- 19.** Section 79 of the said Act is amended by adding thereto the following subsection:

Where
approval
of O.M.B. not
required

(11*a*) Notwithstanding subsection (11), an area municipality may, without the approval of the Municipal Board, pass one or more by-laws to impose a special rate or rates in one or more defined areas of the area municipality to raise the whole or any part of the amount charged to that municipality provided that,

- (*a*) the defined area or areas constitute the entire portion of the Urban Transit Area that is situate within the area municipality; and
- (*b*) the by-law of the Regional Council passed under subsection (1) defining the Urban Transit Area is either final and binding under subsection (10) or thirty days have expired since the passing of the by-law or any amendments thereto and all appeals against the by-law or any such amendments have been finally disposed of,

as evidenced by a certificate to that effect signed by the clerk of the Regional Corporation.

s. 133 (23),
amended

- 20.**—(1) Subsection 133 (23) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 133 (46) (*b*),
amended

- (2) Clause 133 (46) (*b*) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

s. 153,
amended

- 21.** Section 153 of the said Act is amended by adding thereto the following subsections:

Zones

(3*a*) Notwithstanding subsection (3), upon the application of the Ottawa Board authorized by a resolution thereof, or upon the application of petitioners in accordance with subsection (3*d*), the Municipal Board may, by order,

- (*a*) divide or redivide the school division into zones, and shall designate the name or number each zone shall bear and shall declare the date the division or redivision shall take effect;
- (*b*) alter or dissolve any or all of the zones created by an order under clause (*a*) and shall declare the date when such alterations or dissolutions shall take effect;

(c) provide that the public school electors in each zone created or altered under this subsection shall elect such number of members to the Ottawa Board as shall be specified in the order provided that the total number of members specified in the order is twelve; and

(d) notwithstanding the *Municipal Elections Act* or the *Education Act*, make such provisions as are considered necessary for the holding of elections of members to the Ottawa Board by electors in zones created or altered under this subsection. R.S.O. 1980,
cc. 308, 129

(3b) Notwithstanding clause (3a) (a) or (b), the Municipal Board may not create a zone under those clauses which contains part only of a ward of the City of Ottawa or of a ward of the City of Vanier or part only of the Village of Rockcliffe Park. Limitation

(3c) While a provision of an order of the Municipal Board authorized by clause (3a) (c) is in effect for purposes of an election, the members of the Ottawa Board to be elected at the election by public school electors shall be elected in accordance with the provision of the order and not in accordance with subsection (3). Election

(3d) A petition of 150 or more public school electors of the school division may be presented to the Ottawa Board requesting the Board to apply to the Municipal Board to divide or redivide the school division into zones or to alter or dissolve any or all of the existing zones created by an order of the Municipal Board, and if the Ottawa Board refuses or neglects to make the application within one month after the receipt by the Ottawa Board of the petition, the petitioners or any of them may apply to the Municipal Board for the division, redivision, alteration or dissolution, as the case may be. Petition

PART VII

REGIONAL MUNICIPALITY OF PEEL

22. Subsection 80 (14) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth and seventh lines and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”. s. 80 (14),
amended

23.—(1) Subsection 98 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”. s. 98 (22),
amended

(2) Clause 98 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 98 (45) (b),
amended

PART VIII

REGIONAL MUNICIPALITY OF SUDBURY

s. 25 (14),
amended

- 24.** Subsection 25 (14) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply” in the sixth and seventh lines and inserting in lieu thereof “section 30 of the *Public Utilities Act* applies”.

s. 84 (22),
amended

- 25.**—(1) Subsection 84 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 84 (45) (b),
amended

- (2) Clause 84 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

PART IX

REGIONAL MUNICIPALITY OF WATERLOO

s. 2 (1) (g),
amended

- 26.** Clause 2 (1) (g) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out,

“COMMENCING at a point in the easterly boundary of the Township of Waterloo where it is intersected by the easterly prolongation of the northerly limit of County Road Number 31;

THENCE westerly to and along the northerly limit of the said County Road Number 31 to the easterly limit of County Road Number 17;”

in the seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof:

“COMMENCING at a point in the easterly boundary of the Township of Waterloo where it is intersected by the northerly limit of County Road Number 31;

THENCE westerly along the northerly limit of the said County Road Number 31 to the easterly limit of County Road Number 17;”.

s. 59a,
enacted

- 27.** The said Act is amended by adding thereto the following section:

Disposal of
liquid or
solid
material

59a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation

and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

28.—(1) Subsection 132 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”. s. 132 (22), amended

(2) Clause 132 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 132 (45) (b), amended

29. Section 169 of the said Act is amended by adding thereto the following subsections: s. 169, amended

(7) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may, Products from industrial waste, etc.

(a) enter into agreements with any person;

(b) carry on investigations, experiments, research or development;

(c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and

(d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(8) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (7). R.S.O. 1980, c. 309, not to apply

PART X

REGIONAL MUNICIPALITY OF YORK

30. The *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 61a, enacted

Disposal of
liquid or
solid
material

61a.—(1) The Regional Council has and shall be deemed always to have had the authority to pass by-laws to provide for receiving and disposing of liquid or solid material that is suitable for treatment in the sewage works of the Regional Corporation and that is transported to those sewage works for receipt and disposal by the Regional Corporation.

Terms and
conditions

(2) A by-law under subsection (1) may prescribe the terms and conditions on which material mentioned in subsection (1) will be received and disposed of, and fix charges for receiving and disposing of the material, and different conditions and charges may be made applicable in respect of different classes of such material and to different classes of persons transporting such material to the sewage works for receipt and disposal by the Regional Corporation.

s. 123 (5),
amended

31. Subsection 123 (5) is amended by striking out “122” in the second line and inserting in lieu thereof “121”.

s. 134 (22),
amended

32.—(1) Subsection 134 (22) of the said Act is amended by striking out “5” in the fourth line and inserting in lieu thereof “8”.

s. 134 (45) (b),
amended

(2) Clause 134 (45) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”.

Commence-
ment

33.—(1) This Act, except section 29, comes into force on the day it receives Royal Assent.

Idem

(2) Section 29 shall be deemed to have come into force on the 1st day of January, 1982.

Short title

34. The short title of this Act is the *Regional Municipalities Amendment Act, 1982*.





An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

June 17th, 1982

2nd Reading

October 21st, 1982

3rd Reading

November 16th, 1982

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

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipal Act

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

EXPLANATORY NOTES

SECTION 1. The re-enactment of paragraph 8 of section 1 of the Act is complementary to the re-enactment of subsection 149 (1) of the Act as set out in section 13 of the Bill. The re-enactment of section 149 will remove the requirement for the assent of the electors with respect to money by-laws related to debts to be incurred beyond the life of the council. As a result, several provisions of the Act are amended, re-enacted or repealed to delete references to the assent of the electors and delete references to electors entitled to vote on money by-laws.

SECTION 2. Section 24 of the Act, which authorizes the establishment of inter-urban administrative areas, is considered to be archaic. Therefore, it is proposed that section 24 be repealed.

SECTION 3. The amendment to subsection 25 (6) removes the requirement that the Municipal Board send notice to the Minister of Health when an application is made to dissolve a municipality or local board.

SECTION 4. The repeal of section 74 removes the authority of a mayor to call out the *posse comitatus*. The power is considered to be obsolete. *Posse comitatus* is defined in *Jowitt's Dictionary of English Law* (2nd Ed.) as follows:

. . . , the power of the county; an assemblage of the able-bodied male inhabitants above the age of fifteen of a county, except peers and clergymen. The sheriff of the county may summon the *posse comitatus* to defend the county against the enemies of the Crown, or to keep the peace, or to pursue felons, or to enforce the royal writ. Persons failing to obey the summons are liable to fine and imprisonment. The use of the *posse* fell into disuse as the result of the establishment of the police forces during the last century: but the power to call out the *posse* remained in law until the repeal of the *Sheriffs Act*, [U.K.] 1887, s. 8 (1) by the *Criminal Law Act*, [U.K.] 1967, Sch. 3.

SECTION 5. The repeal of subsection 81 (5) removes the prohibition against council members receiving money from the municipal treasurer for work done. In light of the *Municipal Conflict of Interest Act*, subsection 81 (5) is considered to be unnecessary.

SECTION 6. Various provisions of the Act provide for fines for persons who contravene particular provisions of the Act. These provisions are inconsistent. Under the proposed re-enactment of subsection 84 (2) and amendments to several other sections, as set out in this Bill, persons who contravene the particular provisions of the Act will be liable to the general penalty provisions of the *Provincial Offences Act*.

SECTION 7. The proposed section 104a provides for the use of the English and French languages by municipalities.

Subsections 104a (1) and (2) provide that by-laws, resolutions and official plans may be in English or both English and French.

BILL 150

1982

An Act to amend the Municipal Act

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

1. Paragraph 8 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 8. "electors", when applied to a municipal election, means the persons entitled to vote at a municipal election and when applied to voting on any by-law or on a resolution or question, unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors.
2. Section 24 of the said Act is repealed. s. 24,
repealed
3. Subsection 25 (6) of the said Act is amended by striking out "which shall in every case include a written notice to the Minister of Health" in the third, fourth and fifth lines. s. 25 (6),
amended
4. Section 74 of the said Act is repealed. s. 74,
repealed
5. Subsection 81 (5) of the said Act is repealed. s. 81 (5),
repealed
6. Subsection 84 (2) of the said Act is repealed and the following substituted therefor: s. 84 (2),
re-enacted
 - (2) Every treasurer who contravenes subsection (1) is guilty of an offence. Offence
7. The said Act is amended by adding thereto the following section: s. 104a,
enacted
 - 104a.—(1) Every council may pass its by-laws and resolutions in English or in both English and French. English and
French
by-laws and
resolutions
 - (2) Every council may adopt an official plan that is in English or that is in both English and French. Official
plans

- Proceedings of council (3) Every council and every committee of council may conduct its proceedings in English or French or in both English and French.
- Minutes (4) Notwithstanding subsection (3), the minutes of the proceedings of council and all committees of council shall be kept in English or, where so authorized by a by-law of the council, in both English and French.
- Conduct of affairs, etc., of municipality (5) Unless otherwise directed by a by-law of the council, the officers and servants of a municipality may conduct the business and affairs of the municipality in such language, including a language other than English or French, as may be reasonable in the circumstances.
- Proviso (6) Nothing in this section,
 - (a) affects an obligation imposed by or under any Act to make, keep, use, file, register or submit any form, book, document or other paper of any kind in the language or languages specified by or under the Act;
 - (b) affects any requirement at law to give reasonable notice.
- Translations (7) Where any form, book, document or other paper of any kind is submitted by a municipality to a ministry of the Government of Ontario in French, the municipality shall, at the request of the minister of the ministry to which the form, book, document or other paper was submitted, supply the minister with an English translation thereof.
- s. 124 (12), re-enacted **8.—**(1) Subsection 124 (12) of the said Act is repealed and the following substituted therefor:
- Joint and several liability (12) All debentures issued under the authority of this section are direct, joint and several obligations of the municipality and the school board, and, in the case of debentures issued by a regional or district municipality or the County of Oxford, are direct, joint and several obligations of that municipality, the school board and the area municipalities as defined in the Act establishing that municipality, but nothing in this subsection affects the rights of that municipality, the school board and such area municipalities as among themselves.
- Ranking of debentures (12a) Notwithstanding any general or special Act or any differences in date of issue or maturity, every debenture issued by a municipality under the authority of this section shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the municipality,

Subsection 104a (3) provides that every council may conduct its proceedings and the proceedings of its committees in English or French or in both English and French.

Subsection 104a (4) requires that the minutes of council and its committees must be in English unless the council has authorized bilingual minutes.

Subsection 104a (5) clarifies that the officers and servants of a municipality may carry out the business and affairs of the municipality in such language as may be reasonable in the circumstances. The language may be a language other than English or French.

Subsection 104a (6) safeguards requirements arising under statutes that a particular language be used. For example, clause 14 (2) (h) of the *Occupational Health and Safety Act* provides that:

“ . . . an employer shall,

(h) *post, in the work place, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the work place, outlining the rights, responsibilities and duties of workers*”.

Subsection 104a (6) also safeguards requirements imposed at law to give reasonable notice. While this duty is set out in the *Statutory Powers Procedure Act* with respect to hearings to which that Act applies, there are also proceedings to which the common law applies for which reasonable notice must be given.

Subsection 104a (7) allows a Minister of the Crown to require that the documents prepared in French submitted to his or her Ministry be submitted with an English translation.

SECTION 8.—Subsection 1. The re-enactment of subsection 124 (12) splits the present subsection (12) into two subsections and extends the effect of the present subsection (12) to provide that debentures issued by a regional or district municipality or the County of Oxford on behalf of a school board are a liability of all the area municipalities within that municipality.

Subsection 2. See Note for section 1.

SECTION 9. The amendment to section 143 removes the minimum population requirements with respect to the issuing of instalment debentures and replacement debentures. References to the assent of the electors are also deleted. (See Note for section 1).

SECTION 10. The amendment to clause 144 (a) removes the minimum population requirement for the issuing of debentures redeemable by lot.

SECTION 11. The amendment to subsection 146 (1) removes the minimum population requirement for the issuing of sinking fund debentures.

The amendment to clause 146 (2) (b) decreases the amount required to be raised in each year for sinking fund debentures.

SECTION 12. The amendment to subsection 147 (1) removes the minimum population requirement for the issuing of term debentures.

The amendment to clause 147 (2) (b) decreases the amount required to be raised in each year for a term debenture retirement fund.

SECTION 13. The requirement for the assent of the electors with respect to debts to be incurred beyond the term of the council is deleted. The Municipal Board will be authorized to require that notice be given by a council of any proposal to incur a debt that requires Board approval.

except as to the availability of any sinking funds applicable to any particular issue of debentures.

- (2) Subsection 124 (15) of the said Act is repealed. s. 124 (15),
repealed
- 9.**—(1) Subsection 143 (4) of the said Act is amended by striking out s. 143 (4),
amended
“having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act* may by by-law, without the assent of the electors” in the second, third and fourth lines and inserting in lieu thereof “may by by-law”.
- (2) Subsection 143 (5) of the said Act is amended by striking out s. 143 (5),
amended
“without the assent of the electors” in the first and second lines.
- (3) Subsection 143 (15) of the said Act is amended by striking out s. 143 (15),
amended
“having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines.
- 10.** Clause 144 (a) of the said Act is amended by striking out s. 144 (a),
amended
“having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the first, second and third lines.
- 11.**—(1) Subsection 146 (1) of the said Act is amended by striking out s. 146 (1),
amended
“having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second and third lines.
- (2) Clause 146 (2) (b) of the said Act is amended by striking out s. 146 (2) (b),
amended
“5” in the second line and inserting in lieu thereof “8”.
- 12.**—(1) Subsection 147 (1) of the said Act is amended by striking out s. 147 (1),
amended
“having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines.
- (2) Clause 147 (2) (b) of the said Act is amended by striking out s. 147 (2) (b),
amended
“5” in the fifth line and inserting in lieu thereof “8”.
- 13.**—(1) Subsection 149 (1) of the said Act is repealed and the following substituted therefor: s. 149 (1),
re-enacted
- (1) Subject to the limitations in this or any other Act, a Corporation
may incur
debt
municipal corporation may incur a debt for the purposes of the municipality whether under this or under any other Act.
- (2) Subsection 149 (2) of the said Act, exclusive of the clauses, is s. 149 (2),
amended
repealed and the following substituted therefor:

O.M.B.
approval
not required
R.S.O. 1980,
c. 347

(2) Sections 64 and 65 of the *Ontario Municipal Board Act* do not apply so as to require Municipal Board approval with respect to any of the following undertakings, works, projects, schemes, acts, matters or things, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by the municipality, corporation or any other municipal corporation,

s. 149 (3),
re-enacted

(3) Subsection 149 (3) of the said Act is repealed and the following substituted therefor:

Notice

(3) Where a municipal corporation applies to the Municipal Board for the approval of the incurring of a debt, the Board may direct that notice of the proposal to incur the debt be given in such manner as the Board may require and that the notice state that anyone objecting to the proposal may, within such time from the giving of the notice as may be prescribed by the Board, file with the clerk of the municipal corporation an objection to the proposal and the clerk shall forthwith forward a copy of the objection to the secretary of the Board.

s. 150 (1),
re-enacted

14. Subsection 150 (1) of the said Act is repealed and the following substituted therefor:

Contracts for
supply of
public utility
R.S.O. 1980,
c. 303

(1) A municipal corporation may enter into a contract for the supply of any service of a public utility as defined in the *Municipal Affairs Act* or of sewage works to the municipal corporation for its use or for resale to the inhabitants thereof for their use for such term of years as the Municipal Board may approve and may renew such contract from time to time for such further term of years as the Municipal Board may approve.

s. 151 (1),
re-enacted

15. Subsection 151 (1) of the said Act is repealed and the following substituted therefor:

Special
power of
county to
borrow

(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure.

s. 152 (1),
amended

16.—(1) Subsection 152 (1) of the said Act is amended by striking out “without the assent of the electors” in the seventh and eighth lines.

s. 152 (2),
repealed

(2) Subsection 152 (2) of the said Act is repealed.

s. 155,
amended

17. Section 155 of the said Act is amended by striking out “and or conviction is liable to a fine of not more than \$100” in the sixth and seventh lines.

SECTION 14 AND 15. See Note for section 1.

SECTION 16.—Subsection 1. See Note for section 1.

Subsection 2. The repeal of subsection 152 (2) removes the minimum population requirement with respect to debentures that have a varying interest rate.

SECTION 17. See Note for section 6.

SECTION 18. The proposed section 160a exempts non-profit hospital service corporations from municipal and school taxation and provides for payments by the Minister in lieu of the municipal taxes.

SECTION 19. Under the proposed amendment to subsection 170 (2) of the Act, all local municipalities will have the power to place moneys not immediately required for the purposes for which debentures were sold to be invested in the general funds of the municipality until such time as they are needed for the purposes for which the debentures were issued.

SECTION 20. See Note for section 6.

SECTION 21. See Note for section 1.

SECTION 22.—Subsection 1. See Note for section 1.

- 18.** The said Act is further amended by adding thereto the following section: s. 160a, enacted

160a.—(1) In this section, “non-profit hospital service corporation” means a corporation without share capital that provides laundry or food services to one or more public hospitals, as defined in the *Public Hospitals Act*. Interpretation

R.S.O. 1980,
c. 410

(2) Real property occupied by a non-profit hospital service corporation and used chiefly and preponderantly by the corporation for one or both of the services mentioned in subsection (1) is exempt from taxation for municipal and school purposes but is not exempt from a sewage service rate that is imposed under subsection 218 (16) and that is based on the water rate. Tax exemption

(3) In each year, the Minister may pay to a local municipality, in which there is real property exempted from taxation under subsection (2), an amount equal to the taxes for municipal purposes that would have been payable in respect of that real property in that year if the real property had been subject to municipal taxation. Payment in lieu of taxes

(4) Subsections 160 (12) to (19) apply with necessary modifications to an amount paid by the Minister to a local municipality under subsection (3) as though such amount were an amount levied by that local municipality under section 160. Apportionment

(5) For the purposes of subclause 365 (1) (j) (iii) an amount paid by the Minister to a local municipality under subsection (3) shall be deemed to have been received by the municipality under section 160. Idem

- 19.** Subsection 170 (2) of the said Act is amended by striking out “having a population of not less than 20,000, as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 170 (2), amended

- 20.** Subsection 178 (2) of the said Act is repealed and the following substituted therefor: s. 178 (2), re-enacted

(2) Every treasurer who contravenes subsection (1) is guilty of an offence. Offence

- 21.** Subsection 196 (10) of the said Act is amended by striking out “without the assent of the electors and” in the first and second lines. s. 196 (10), amended

- 22.**—(1) Clause (a) of paragraph 25 of section 208 of the said Act is repealed. s. 208, par. 25 (a), repealed

s. 208,
par. 43 (d),
amended

- (2) Clause (d) of paragraph 43 of the said section 208 is amended by striking out “and on conviction is liable to a penalty of not more than \$50” in the sixth and seventh lines.

s. 208,
par. 56 (a),
re-enacted;
par. 56 (b, e),
repealed
Incorporation
and members

- (3) Clauses (a), (b) and (e) of paragraph 56 of the said section 208 are repealed and the following substituted therefor:

(a) A parking authority established under this paragraph is a body corporate and shall consist of three members appointed by the council of the municipality, each of whom shall be either a member of the council of the municipality or qualified to be elected as a member thereof, and the members so appointed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed.

s. 208, par. 57,
amended

- (4) Paragraph 57 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Special
undertakings

57. For acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community recreation centres, stadia, museums, including public historical museums and similar buildings, within or outside the municipality and any such undertaking may be for the purpose of commemorating or honouring persons or events.

s. 210, par. 49,
amended

- 23.**—(1) Clause (a) of subparagraph v of paragraph 49 of section 210 of the said Act is repealed.

s. 210,
par. 51 (b),
repealed

- (2) Clause (b) of paragraph 51 of the said section 210 is repealed.

s. 210,
par. 92 (a),
repealed

- (3) Clause (a) of paragraph 92 of the said section 210 is repealed.

s. 210, par. 94,
re-enacted

- (4) Paragraph 94 of the said section 210 is repealed and the following substituted therefor:

Slaughter
houses

94. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law, but this paragraph does not apply to the slaughter of animals on land assessed as farm property for the use of the occupants of the property.

Subsection 2. See Note for section 6.

Subsection 3. The proposed re-enactment of clause (a) of paragraph 56 of section 208 of the Act and repeal of clause (b) will enable members of council to be members of a parking authority. At present, under clause (b), members of council are ineligible to be appointed as members of a parking authority. Under section 240 of the Act, council may provide for the remuneration of the members of local boards. Therefore, it is proposed that clause (e) be repealed because it is redundant.

Subsection 4. The amendment to paragraph 57 clarifies that an undertaking under this paragraph may commemorate or honour any person or event.

SECTION 23.—Subsections 1 to 3. See Note for section 1.

Subsection 4. At present any person living in a town, village or township may slaughter animals for his own use on his own premises. Under the proposed re-enactment of paragraph 94 of section 210 of the Act, municipalities will be able to prohibit any person, except a farmer, from slaughtering animals on his own premises.

SECTION 24.—Subsection 1. The proposed re-enactment of clause 218 (7) (d) of the Act authorizes every municipality to compute its sewer rate on the basis of the assessed value of the land or on the assessed value of the land and on the business assessment levied against the person occupying or using the lands. At present, clause (d) restricts the computation of sewer rates to the assessed value of the lands.

Subsection 2. The proposed clause 218 (14) (c) will permit municipalities to provide for increased sewer and water rates for triangular or irregularly shaped lots.

Subsection 3. At present, only persons subject to a frontage rate may commute their sewer or water rates. Under the proposed re-enactment, all persons will be able to do so if the municipality so provides by by-law.

Subsection 4. Self-explanatory.

SECTION 25. Paragraph 6 of section 225 is considered to be obsolete and it is therefore proposed that the paragraph be repealed. The said paragraph enables county councils to pass by-laws related to the destruction and disposal of the refuse obtained in the process of cleaning grass or clover seed.

SECTION 26. The proposed re-enactment of subsection 272 (1) deletes an obsolete reference to toll roads.

SECTION 27. Section 287 authorizes municipalities to raise money for the reflooring of bridges by the issue of debentures. Municipalities have such powers under other provisions of the Act. Therefore, section 287 is redundant and it is proposed that the section be repealed.

24.—(1) Clause 218 (7) (d) of the said Act is repealed and the following substituted therefor: s. 218 (7) (d), re-enacted

(d) Either a mill rate on the assessed value of the lands designated under subsection (4) or a mill rate on the assessed value of the lands designated under subsection (4) and on the business assessment assessed against persons occupying or using the lands for the purpose of or in connection with a business.

(2) Subsection 218 (14) of the said Act is amended by adding thereto the following clause: s. 218 (14), amended

(c) provide for increasing the metre frontage rate upon lands that are triangular or irregularly shaped and for terminating the increased rate upon a basis that is equitable and just.

(3) Subsection 218 (15) of the said Act is repealed and the following substituted therefor: s. 218 (15), re-enacted

(15) The council may by a general by-law or by a by-law applicable to the particular work prescribe terms and conditions upon which persons whose lands are liable to a sewer rate or water works rate imposed by a by-law under this section may commute such rate for a payment in cash. Commutation

(4) A by-law passed under subsection 218 (2) of the *Municipal Act*, or a predecessor thereof, prior to the coming into force of this section, is not invalid by reason only of the fact that the sewer rate or a water works rate imposed by it has been computed on the basis of a mill rate on the assessed value of lands and on the business assessment assessed against persons occupying or using such lands for the purpose of or in connection with a business and, in such case, the rate shall continue to be computed in the same manner until the by-law is repealed or amended to provide otherwise. Saving R.S.O. 1980, c. 302

25. Paragraph 6 of section 225 of the said Act is repealed. s. 225, par. 6, repealed

26. Subsection 272 (1) of the said Act is repealed and the following substituted therefor: s. 272 (1), re-enacted

(1) The council of a county may by by-law abandon the whole or any part of any road owned by it, whether the road is situated wholly within the county or partly within it and partly within an adjoining county. Abandonment by county of roads

27.—(1) Section 287 of the said Act is repealed. s. 287, repealed

Saving
R.S.O. 1980,
c. 302

(2) The repeal of section 287 of the *Municipal Act* does not affect the rights of any person arising from debentures issued under a by-law passed under that section prior to the coming into force of this section.

s. 298 (1) (f),
re-enacted

28. Clause 298 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) for permitting subways under and bridges over any highway upon such conditions as the council considers advisable.

s. 312,
repealed

29.—(1) Section 312 of the said Act is repealed.

Saving

(2) The repeal of section 312 of the *Municipal Act* does not affect the rights of any municipality arising from shares held by the municipality or the rights or obligations of the municipality in respect of loans or guarantees made by it where the shares were subscribed or the loans or guarantees were made under a by-law passed under that section prior to the coming into force of this section.

s. 342 (1),
amended

30. Subsection 342 (1) of the said Act is amended by striking out “shall submit for the assent of the electors of the village and, if it receives such assent” in the third and fourth lines.

s. 343 (4),
repealed

31. Subsection 343 (4) of the said Act is repealed.

s. 345 (1),
re-enacted

32.—(1) Subsection 345 (1) of the said Act is repealed and the following substituted therefor:

Acquiring
land for
parks,
exhibitions,
etc.

(1) Upon the petition of three-fourths of the persons qualified to vote at an election of trustees for a police village, the council of the township in which the police village is situate may pass a by-law for acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council considers necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

s. 345 (6),
repealed

(2) Subsection 345 (6) of the said Act is repealed.

s. 346,
re-enacted

33. Section 346 of the said Act is repealed and the following substituted therefor:

Trustees to
pass money
by-laws where
village situate
in two or more
townships

346.—(1) Notwithstanding sections 342, 343 and 344, where a police village comprises parts of two or more townships the trustees of the police village have all the powers of a council of a village to pass by-laws for the purposes mentioned in those sec-

SECTION 28. The proposed re-enactment of clause 298 (1) (*f*) of the Act broadens the powers of municipalities to permit subways under and bridges over highways. At present, such subways and bridges must be used for the movement of cattle.

SECTION 29. Section 312 of the Act authorizes municipalities to invest in, lend money to, and guarantee the loans of bridge companies. It is proposed to repeal the section. All existing investments, loans and guarantees will be preserved.

SECTIONS 30 TO 33. The proposed amendments to sections 342, 343, 345 and 346 of the Act all relate to police villages and have the same effect as the amendments, re-enactments and repeals referred to in the Note for section 1.

SECTIONS 34 TO 36. The amendments to sections 379, 380 and 386 replace the words "cities, towns, villages and townships" with the term "local municipalities" which is defined in paragraph 11 of section 1 of the Act.

SECTION 37. See Note for section 6.

tions, but this subsection does not authorize the trustees of a police village to issue debentures.

(2) A by-law passed under subsection (1) shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 336 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 337. Proportions of debt

(3) The trustees shall serve a certified copy of a by-law passed under subsection (1) upon the clerk of each of the townships within which a part of the police village is situate. Certified copy for each township

(4) The council of each township shall forthwith thereafter pass a by-law for raising the amount that is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it is not necessary that such by-law impose any rate for the payment of the debentures. By-law of township for raising money

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. Special rates

34.—(1) Subsection 379 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 379 (1), amended

(2) Subsection 379 (2) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 379 (2), amended

35. Subsection 380 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first and second lines and inserting in lieu thereof “local municipalities”. s. 380 (1), amended

36. Subsection 386 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 386 (1), amended

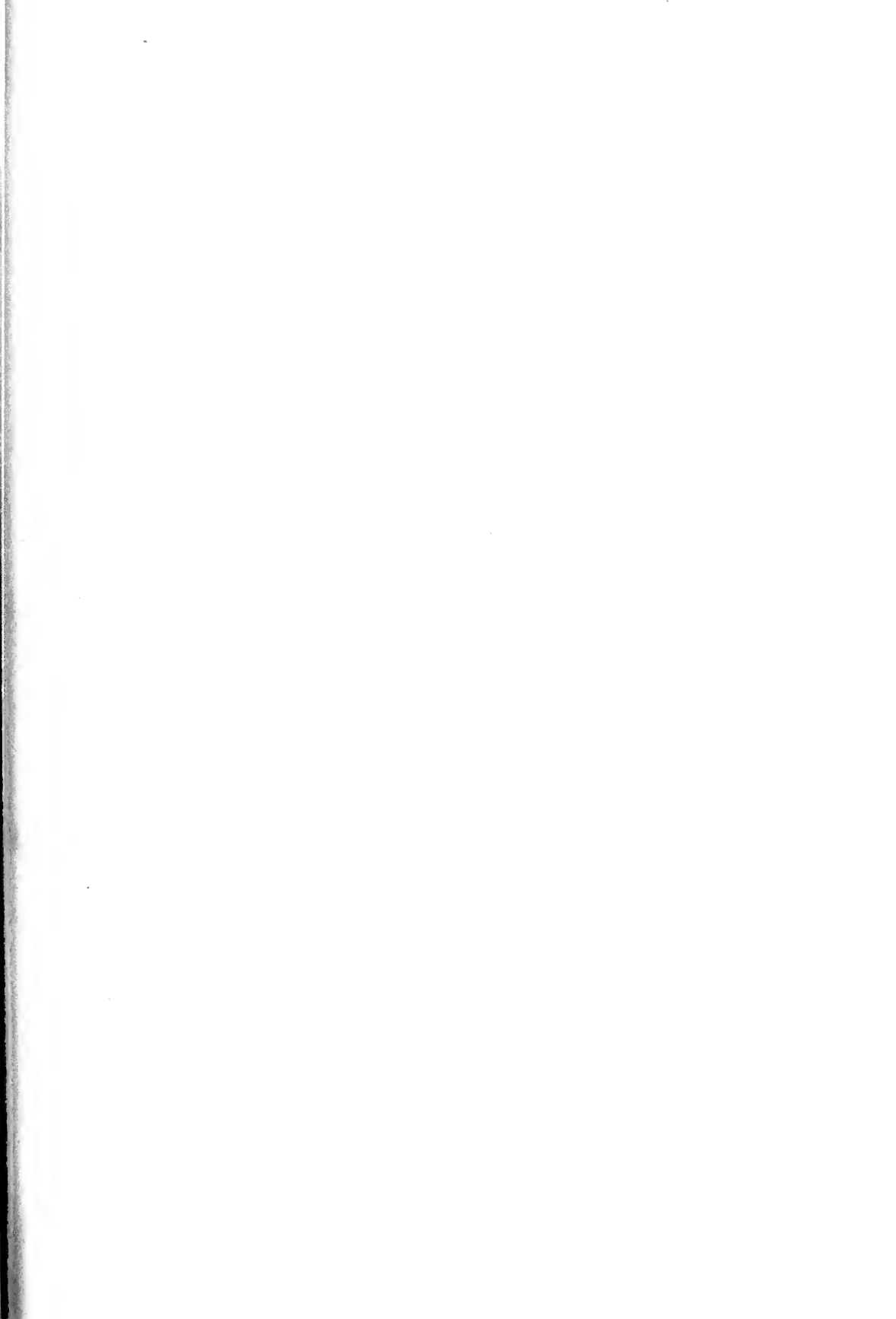
37. Section 473 of the said Act is repealed and the following substituted therefor: s. 473, re-enacted

473. Every treasurer, clerk or other officer who refuses or neglects to perform any duty required of him by this Part is guilty of an offence. Offence for officers failing to perform their duty

- s. 474,
repealed **38.** Section 474 of the said Act is repealed.
- s. 483,
amended **39.** Section 483 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$200” in the third and fourth lines.
- Commence-
ment **40.** This Act comes into force on the day it receives Royal Assent.
- Short title **41.** The short title of this Act is the *Municipal Amendment Act, 1982*.

SECTION 38. Section 474 of the Act creates an offence with respect to fraud by municipal officers. Sections 111 and 112 of the *Criminal Code* (Canada) relate to fraud involving public officers and municipal officials. Section 474 is therefore considered to be redundant and is repealed.

SECTION 39. See Note for section 6.



An Act to amend the Municipal Act

1st Reading

June 17th, 1982

2nd Reading

3rd Reading

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

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipal Act

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

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

EXPLANATORY NOTES

SECTION 1. The re-enactment of paragraph 8 of section 1 of the Act is complementary to the re-enactment of subsection 149 (1) of the Act as set out in section 14 of the Bill. The re-enactment of section 149 will remove the requirement for the assent of the electors with respect to money by-laws related to debts to be incurred beyond the life of the council. As a result, several provisions of the Act are amended, re-enacted or repealed to delete references to the assent of the electors and delete references to electors entitled to vote on money by-laws.

SECTION 2. Section 24 of the Act, which authorizes the establishment of inter-urban administrative areas, is considered to be archaic. Therefore, it is proposed that section 24 be repealed.

SECTION 3. The amendment to subsection 25 (6) removes the requirement that the Municipal Board send notice to the Minister of Health when an application is made to dissolve a municipality or local board.

SECTION 4. The repeal of section 74 removes the authority of a mayor to call out the *posse comitatus*. The power is considered to be obsolete. *Posse comitatus* is defined in *Jowitt's Dictionary of English Law* (2nd Ed.) as follows:

. . . , the power of the county; an assemblage of the able-bodied male inhabitants above the age of fifteen of a county, except peers and clergymen. The sheriff of the county may summon the *posse comitatus* to defend the county against the enemies of the Crown, or to keep the peace, or to pursue felons, or to enforce the royal writ. Persons failing to obey the summons are liable to fine and imprisonment. The use of the *posse* fell into disuse as the result of the establishment of the police forces during the last century: but the power to call out the *posse* remained in law until the repeal of the *Sheriffs Act*, [U.K.] 1887, s. 8 (1) by the *Criminal Law Act*, [U.K.] 1967, Sch. 3.

SECTION 5. The repeal of subsection 81 (5) removes the prohibition against council members receiving money from the municipal treasurer for work done. In light of the *Municipal Conflict of Interest Act*, subsection 81 (5) is considered to be unnecessary.

SECTION 6. Various provisions of the Act provide for fines for persons who contravene particular provisions of the Act. These provisions are inconsistent. Under the proposed re-enactment of subsection 84 (2) and amendments to several other sections, as set out in this Bill, persons who contravene the particular provisions of the Act will be liable to the general penalty provisions of the *Provincial Offences Act*.

SECTION 7. The proposed section 104a provides for the use of the English and French languages by municipalities.

Subsections 104a (1) and (2) provide that by-laws, resolutions and official plans may be in English or both English and French.

BILL 150

1982

An Act to amend the Municipal Act

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

1. Paragraph 8 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 8. "electors", when applied to a municipal election, means the persons entitled to vote at a municipal election and when applied to voting on any by-law or on a resolution or question, unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors.
2. Section 24 of the said Act is repealed. s. 24,
repealed
3. Subsection 25 (6) of the said Act is amended by striking out "which shall in every case include a written notice to the Minister of Health" in the third, fourth and fifth lines. s. 25 (6),
amended
4. Section 74 of the said Act is repealed. s. 74,
repealed
5. Subsection 81 (5) of the said Act is repealed. s. 81 (5),
repealed
6. Subsection 84 (2) of the said Act is repealed and the following substituted therefor: s. 84 (2),
re-enacted
 - (2) Every treasurer who contravenes subsection (1) is guilty of an offence. Offence
7. The said Act is amended by adding thereto the following section: s. 104a,
enacted

104a.—(1) Every council may pass its by-laws and resolutions in English or in both English and French. English and
French
by-laws and
resolutions

 - (2) Every council may adopt an official plan that is in English or that is in both English and French. Official
plans

Proceedings
of council

(3) Every council and every committee of council may conduct its proceedings in English or French or in both English and French.

Minutes

(4) Notwithstanding subsection (3), the minutes of the proceedings of council and all committees of council shall be kept in English or, where so authorized by a by-law of the council, in both English and French.

Conduct of
affairs, etc.,
of municipality

(5) Unless otherwise directed by a by-law of the council, the officers and servants of a municipality may conduct the business and affairs of the municipality in such language, including a language other than English or French, as may be reasonable in the circumstances.

Proviso

(6) Nothing in this section,

(a) affects an obligation imposed by or under any Act to make, keep, use, file, register or submit any form, book, document or other paper of any kind in the language or languages specified by or under the Act;

(b) affects any requirement at law to give reasonable notice.

Translations

(7) Where any form, book, document or other paper of any kind is submitted by a municipality to a ministry of the Government of Ontario in French, the municipality shall, at the request of the minister of the ministry to which the form, book, document or other paper was submitted, supply the minister with an English translation thereof.

s. 124 (12),
re-enacted

8.—(1) Subsection 124 (12) of the said Act is repealed and the following substituted therefor:

Joint and
several
liability

(12) All debentures issued under the authority of this section are direct, joint and several obligations of the municipality and the school board, and, in the case of debentures issued by a regional or district municipality or the County of Oxford, are direct, joint and several obligations of that municipality, the school board and the area municipalities as defined in the Act establishing that municipality, but nothing in this subsection affects the rights of that municipality, the school board and such area municipalities as among themselves.

Ranking of
debentures

(12a) Notwithstanding any general or special Act or any differences in date of issue or maturity, every debenture issued by a municipality under the authority of this section shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the municipality,

Subsection 104a (3) provides that every council may conduct its proceedings and the proceedings of its committees in English or French or in both English and French.

Subsection 104a (4) requires that the minutes of council and its committees must be in English unless the council has authorized bilingual minutes.

Subsection 104a (5) clarifies that the officers and servants of a municipality may carry out the business and affairs of the municipality in such language as may be reasonable in the circumstances. The language may be a language other than English or French.

Subsection 104a (6) safeguards requirements arising under statutes that a particular language be used. For example, clause 14 (2) (h) of the *Occupational Health and Safety Act* provides that:

“ . . . an employer shall,

(h) *post, in the work place, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the work place, outlining the rights, responsibilities and duties of workers*”.

Subsection 104a (6) also safeguards requirements imposed at law to give reasonable notice. While this duty is set out in the *Statutory Powers Procedure Act* with respect to hearings to which that Act applies, there are also proceedings to which the common law applies for which reasonable notice must be given.

Subsection 104a (7) allows a Minister of the Crown to require that the documents prepared in French submitted to his or her Ministry be submitted with an English translation.

SECTION 8.—Subsection 1. The re-enactment of subsection 124 (12) splits the present subsection (12) into two subsections and extends the effect of the present subsection (12) to provide that debentures issued by a regional or district municipality or the County of Oxford on behalf of a school board are a liability of all the area municipalities within that municipality.

Subsection 2. See Note for section 1.

SECTION 9. The amendment to section 143 removes the minimum population requirements with respect to the issuing of instalment debentures and replacement debentures. References to the assent of the electors are also deleted. (See Note for section 1).

SECTION 10. See Note for section 1.

SECTION 11. The amendment to clause 144 (a) removes the minimum population requirement for the issuing of debentures redeemable by lot.

SECTION 12. The amendment to subsection 146 (1) removes the minimum population requirement for the issuing of sinking fund debentures.

The amendment to clause 146 (2) (b) decreases the amount required to be raised in each year for sinking fund debentures.

SECTION 13. The amendment to subsection 147 (1) removes the minimum population requirement for the issuing of term debentures.

The amendment to clause 147 (2) (b) decreases the amount required to be raised in each year for a term debenture retirement fund.

SECTION 14. The requirement for the assent of the electors with respect to debts to be incurred beyond the term of the council is deleted. The Municipal Board will be authorized to require that notice be given by a council of any proposal to incur a debt that requires Board approval.

except as to the availability of any sinking funds applicable to any particular issue of debentures.

- (2) Subsection 124 (15) of the said Act is repealed. s. 124 (15),
repealed
- 9.**—(1) Subsection 143 (4) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act* may by by-law, without the assent of the electors” in the second, third and fourth lines and inserting in lieu thereof “may by by-law”. s. 143 (4),
amended
- (2) Subsection 143 (5) of the said Act is amended by striking out “without the assent of the electors” in the first and second lines. s. 143 (5),
amended
- (3) Subsection 143 (15) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 143 (15),
amended
- 10.**—(1) Subsection 143a (1) of the said Act, as enacted by section 6 of the Statutes of Ontario, 1982, chapter 24, is amended by striking out “which by-law shall not require the assent of the electors” in the third and fourth lines. s. 143a (1),
amended
- (2) Subsection 143a (13) of the said Act is amended by striking out “the assent of the electors and” in the second line. s. 143a (13),
amended
- 11.** Clause 144 (a) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the first, second and third lines. s. 144 (a),
amended
- 12.**—(1) Subsection 146 (1) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second and third lines. s. 146 (1),
amended
- (2) Clause 146 (2) (b) of the said Act is amended by striking out “5” in the second line and inserting in lieu thereof “8”. s. 146 (2) (b),
amended
- 13.**—(1) Subsection 147 (1) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 147 (1),
amended
- (2) Clause 147 (2) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 147 (2) (b),
amended
- 14.**—(1) Subsection 149 (1) of the said Act is repealed and the following substituted therefor: s. 149 (1),
re-enacted

Corporation
may incur
debt

(1) Subject to the limitations in this or any other Act, a municipal corporation may incur a debt for the purposes of the municipality whether under this or under any other Act.

s. 149 (2),
amended

(2) Subsection 149 (2) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

O.M.B.
approval
not required
R.S.O. 1980,
c. 347

(2) Sections 64 and 65 of the *Ontario Municipal Board Act* do not apply so as to require Municipal Board approval with respect to any of the following undertakings, works, projects, schemes, acts, matters or things, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by the municipality, corporation or any other municipal corporation,

s. 149 (3),
re-enacted

(3) Subsection 149 (3) of the said Act is repealed and the following substituted therefor:

Notice

(3) Where a municipal corporation applies to the Municipal Board for the approval of the incurring of a debt, the Board may direct that notice of the proposal to incur the debt be given in such manner as the Board may require and that the notice state that anyone objecting to the proposal may, within such time from the giving of the notice as may be prescribed by the Board, file with the clerk of the municipal corporation an objection to the proposal and the clerk shall forthwith forward a copy of the objection to the secretary of the Board.

s. 150 (1),
re-enacted

15. Subsection 150 (1) of the said Act is repealed and the following substituted therefor:

Contracts for
supply of
public utility
R.S.O. 1980,
c. 303

(1) A municipal corporation may enter into a contract for the supply of any service of a public utility as defined in the *Municipal Affairs Act* or of sewage works to the municipal corporation for its use or for resale to the inhabitants thereof for their use for such term of years as the Municipal Board may approve and may renew such contract from time to time for such further term of years as the Municipal Board may approve.

s. 151 (1),
re-enacted

16. Subsection 151 (1) of the said Act is repealed and the following substituted therefor:

Special
power of
county to
borrow

(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure.

s. 152 (1),
amended

17.—(1) Subsection 152 (1) of the said Act is amended by striking out "without the assent of the electors" in the seventh and eighth lines.

SECTION 15 AND 16. See Note for section 1.

SECTION 17.—Subsection 1. See Note for section 1.

Subsection 2. The repeal of subsection 152 (2) removes the minimum population requirement with respect to debentures that have a varying interest rate.

SECTION 18. See Note for section 6.

SECTION 19. The proposed section 160*a* exempts non-profit hospital service corporations from municipal and school taxation and provides for payments by the Minister in lieu of the municipal taxes.

SECTION 20. Under the proposed amendment to subsection 170 (2) of the Act, all local municipalities will have the power to place moneys not immediately required for the purposes for which debentures were sold to be invested in the general funds of the municipality until such time as they are needed for the purposes for which the debentures were issued.

SECTION 21. See Note for section 6.

- (2) Subsection 152 (2) of the said Act is repealed. s. 152 (2),
repealed
- 18.** Section 155 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines. s. 155,
amended
- 19.** The said Act is further amended by adding thereto the following section: s. 160a,
enacted
- 160a.—(1) In this section, “non-profit hospital service corporation” means a corporation without share capital that provides laundry or food services to one or more public hospitals, as defined in the *Public Hospitals Act*. Interpre-
tation

R.S.O. 1980,
c. 410
- (2) Real property occupied by a non-profit hospital service corporation and used chiefly and preponderantly by the corporation for one or both of the services mentioned in subsection (1) is exempt from taxation for municipal and school purposes but is not exempt from a sewage service rate that is imposed under subsection 218 (16) and that is based on the water rate. Tax
exemption
- (3) In each year, the Minister may pay to a local municipality, in which there is real property exempted from taxation under subsection (2), an amount equal to the taxes for municipal purposes that would have been payable in respect of that real property in that year if the real property had been subject to municipal taxation. Payment
in lieu
of taxes
- (4) Subsections 160 (12) to (19) apply with necessary modifications to an amount paid by the Minister to a local municipality under subsection (3) as though such amount were an amount levied by that local municipality under section 160. Apportion-
ment
- (5) For the purposes of subclause 365 (1) (j) (iii) an amount paid by the Minister to a local municipality under subsection (3) shall be deemed to have been received by the municipality under section 160. Idem
- 20.** Subsection 170 (2) of the said Act is amended by striking out “having a population of not less than 20,000, as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 170 (2),
amended
- 21.** Subsection 178 (2) of the said Act is repealed and the following substituted therefor: s. 178 (2),
re-enacted
- (2) Every treasurer who contravenes subsection (1) is guilty of an offence. Offence

s. 196 (10),
amended

22. Subsection 196 (10) of the said Act is amended by striking out “without the assent of the electors and” in the first and second lines.

s. 208,
par. 25 (a),
repealed

23.—(1) Clause (a) of paragraph 25 of section 208 of the said Act is repealed.

s. 208,
par. 43 (d),
amended

(2) Clause (d) of paragraph 43 of the said section 208 is amended by striking out “and on conviction is liable to a penalty of not more than \$50” in the sixth and seventh lines.

s. 208,
par. 56 (a),
re-enacted;
par. 56 (b, e),
repealed
Incorporation
and members

(3) Clauses (a), (b) and (e) of paragraph 56 of the said section 208 are repealed and the following substituted therefor:

(a) A parking authority established under this paragraph is a body corporate and shall consist of three members appointed by the council of the municipality, each of whom shall be either a member of the council of the municipality or qualified to be elected as a member thereof, and the members so appointed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed.

s. 208, par. 57,
amended

(4) Paragraph 57 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Special
undertakings

57. For acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community recreation centres, stadia, museums, including public historical museums and similar buildings, within or outside the municipality and any such undertaking may be for the purpose of commemorating or honouring persons or events.

s. 210, par. 49,
amended

24.—(1) Clause (a) of subparagraph v of paragraph 49 of section 210 of the said Act is repealed.

s. 210,
par. 51 (b),
repealed

(2) Clause (b) of paragraph 51 of the said section 210 is repealed.

s. 210,
par. 92 (a),
repealed

(3) Clause (a) of paragraph 92 of the said section 210 is repealed.

s. 210, par. 94,
re-enacted

(4) Paragraph 94 of the said section 210 is repealed and the following substituted therefor:

SECTION 22. See Note for section 1.

SECTION 23.—Subsection 1. See Note for section 1.

Subsection 2. See Note for section 6.

Subsection 3. The proposed re-enactment of clause (a) of paragraph 56 of section 208 of the Act and repeal of clause (b) will enable members of council to be members of a parking authority. At present, under clause (b), members of council are ineligible to be appointed as members of a parking authority. Under section 240 of the Act, council may provide for the remuneration of the members of local boards. Therefore, it is proposed that clause (e) be repealed because it is redundant.

Subsection 4. The amendment to paragraph 57 clarifies that an undertaking under this paragraph may commemorate or honour any person or event.

SECTION 24.—Subsections 1 to 3. See Note for section 1.

Subsection 4. At present any person living in a town, village or township may slaughter animals for his own use on his own premises. Under the proposed re-enactment of paragraph 94 of section 210 of the Act, municipalities will be able to prohibit any person, except a farmer, from slaughtering animals on his own premises.

SECTION 25.—Subsection 1. The proposed re-enactment of clause 218 (7) (*d*) of the Act authorizes every municipality to compute its sewer rate on the basis of the assessed value of the land or on the assessed value of the land and on the business assessment levied against the person occupying or using the lands. At present, clause (*d*) restricts the computation of sewer rates to the assessed value of the lands.

Subsection 2. The proposed clause 218 (14) (*c*) will permit municipalities to provide for increased sewer and water rates for triangular or irregularly shaped lots.

Subsection 3. At present, only persons subject to a frontage rate may commute their sewer or water rates. Under the proposed re-enactment, all persons will be able to do so if the municipality so provides by by-law.

Subsection 4. Self-explanatory.

SECTION 26. Paragraph 6 of section 225 is considered to be obsolete and it is therefore proposed that the paragraph be repealed. The said paragraph enables county councils to pass by-laws related to the destruction and disposal of the refuse obtained in the process of cleaning grass or clover seed.

SECTION 27. The proposed re-enactment of subsection 272 (1) deletes an obsolete reference to toll roads.

94. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law, but this paragraph does not apply to the slaughter of animals on land assessed as farm property for the use of the occupants of the property.

Slaughter
houses

- 25.**—(1) Clause 218 (7) (d) of the said Act is repealed and the following substituted therefor:

s. 218 (7) (d),
re-enacted

- (d) Either a mill rate on the assessed value of the lands designated under subsection (4) or a mill rate on the assessed value of the lands designated under subsection (4) and on the business assessment assessed against persons occupying or using the lands for the purpose of or in connection with a business.

- (2) Subsection 218 (14) of the said Act is amended by adding thereto the following clause:

s. 218 (14),
amended

- (c) provide for increasing the metre frontage rate upon lands that are triangular or irregularly shaped and for terminating the increased rate upon a basis that is equitable and just.

- (3) Subsection 218 (15) of the said Act is repealed and the following substituted therefor:

s. 218 (15),
re-enacted

- (15) The council may by a general by-law or by a by-law applicable to the particular work prescribe terms and conditions upon which persons whose lands are liable to a sewer rate or water works rate imposed by a by-law under this section may commute such rate for a payment in cash.

Commutation

- (4) A by-law passed under subsection 218 (2) of the *Municipal Act*, or a predecessor thereof, prior to the coming into force of this section, is not invalid by reason only of the fact that the sewer rate or a water works rate imposed by it has been computed on the basis of a mill rate on the assessed value of lands and on the business assessment assessed against persons occupying or using such lands for the purpose of or in connection with a business and, in such case, the rate shall continue to be computed in the same manner until the by-law is repealed or amended to provide otherwise.

Saving
R.S.O. 1980,
c. 302

- 26.** Paragraph 6 of section 225 of the said Act is repealed.

s. 225, par. 6,
repealed

- 27.** Subsection 272 (1) of the said Act is repealed and the following substituted therefor:

s. 272 (1),
re-enacted

Abandonment
by county
of roads

(1) The council of a county may by by-law abandon the whole or any part of any road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county.

s. 287,
repealed

28.—(1) Section 287 of the said Act is repealed.

Saving
R.S.O. 1980,
c. 302

(2) The repeal of section 287 of the *Municipal Act* does not affect the rights of any person arising from debentures issued under a by-law passed under that section prior to the coming into force of this section.

s. 298 (1) (f),
re-enacted

29. Clause 298 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) for permitting subways under and bridges over any highway upon such conditions as the council considers advisable.

s. 312,
repealed

30.—(1) Section 312 of the said Act is repealed.

Saving

(2) The repeal of section 312 of the *Municipal Act* does not affect the rights of any municipality arising from shares held by the municipality or the rights or obligations of the municipality in respect of loans or guarantees made by it where the shares were subscribed or the loans or guarantees were made under a by-law passed under that section prior to the coming into force of this section.

s. 342 (1),
amended

31. Subsection 342 (1) of the said Act is amended by striking out “shall submit for the assent of the electors of the village and, if it receives such assent” in the third and fourth lines.

s. 343 (4),
repealed

32. Subsection 343 (4) of the said Act is repealed.

s. 345 (1),
re-enacted

33.—(1) Subsection 345 (1) of the said Act is repealed and the following substituted therefor:

Acquiring
land for
parks,
exhibitions,
etc.

(1) Upon the petition of three-fourths of the persons qualified to vote at an election of trustees for a police village, the council of the township in which the police village is situate may pass a by-law for acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council considers necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

s. 345 (6),
repealed

(2) Subsection 345 (6) of the said Act is repealed.

SECTION 28. Section 287 authorizes municipalities to raise money for the reflooring of bridges by the issue of debentures. Municipalities have such powers under other provisions of the Act. Therefore, section 287 is redundant and it is proposed that the section be repealed.

SECTION 29. The proposed re-enactment of clause 298 (1) (*f*) of the Act broadens the powers of municipalities to permit subways under and bridges over highways. At present, such subways and bridges must be used for the movement of cattle.

SECTION 30. Section 312 of the Act authorizes municipalities to invest in, lend money to, and guarantee the loans of bridge companies. It is proposed to repeal the section. All existing investments, loans and guarantees will be preserved.

SECTIONS 31 TO 34. The proposed amendments to sections 342, 343, 345 and 346 of the Act all relate to police villages and have the same effect as the amendments, re-enactments and repeals referred to in the Note for section 1.

SECTIONS 35 TO 37. The amendments to sections 379, 380 and 386 replace the words "cities, towns, villages and townships" with the term "local municipalities" which is defined in paragraph 11 of section 1 of the Act.

- 34.** Section 346 of the said Act is repealed and the following substituted therefor: s. 346, re-enacted

346.—(1) Notwithstanding sections 342, 343 and 344, where a police village comprises parts of two or more townships the trustees of the police village have all the powers of a council of a village to pass by-laws for the purposes mentioned in those sections, but this subsection does not authorize the trustees of a police village to issue debentures. Trustees to pass money by-laws where village situate in two or more townships

(2) A by-law passed under subsection (1) shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 336 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 337. Proportions of debt

(3) The trustees shall serve a certified copy of a by-law passed under subsection (1) upon the clerk of each of the townships within which a part of the police village is situate. Certified copy for each township

(4) The council of each township shall forthwith thereafter pass a by-law for raising the amount that is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it is not necessary that such by-law impose any rate for the payment of the debentures. By-law of township for raising money

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. Special rates

- 35.**—(1) Subsection 379 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 379 (1), amended

(2) Subsection 379 (2) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 379 (2), amended

- 36.** Subsection 380 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first and second lines and inserting in lieu thereof “local municipalities”. s. 380 (1), amended

- 37.** Subsection 386 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 386 (1), amended

s. 473,
re-enacted

38. Section 473 of the said Act is repealed and the following substituted therefor:

Offence for
officers
failing to
perform
their duty

473. Every treasurer, clerk or other officer who refuses or neglects to perform any duty required of him by this Part is guilty of an offence.

s. 474,
repealed

39. Section 474 of the said Act is repealed.

s. 483,
amended

40. Section 483 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$200” in the third and fourth lines.

Commence-
ment

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

Short title

42. The short title of this Act is the *Municipal Amendment Act, 1982*.

SECTION 38. See Note for section 6.

SECTION 39. Section 474 of the Act creates an offence with respect to fraud by municipal officers. Sections 111 and 112 of the *Criminal Code* (Canada) relate to fraud involving public officers and municipal officials. Section 474 is therefore considered to be redundant and is repealed.

SECTION 40. See Note for section 6.





An Act to amend the Municipal Act

1st Reading

June 17th, 1982

2nd Reading

November 2nd, 1982

3rd Reading

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

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

BILL 150

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipal Act

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



BILL 150

1982

An Act to amend the Municipal Act

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

1. Paragraph 8 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1, par. 8,
re-enacted

8. "electors", when applied to a municipal election, means the persons entitled to vote at a municipal election and when applied to voting on any by-law or on a resolution or question, unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors.

2. Section 24 of the said Act is repealed. s. 24,
repealed

3. Subsection 25 (6) of the said Act is amended by striking out "which shall in every case include a written notice to the Minister of Health" in the third, fourth and fifth lines. s. 25 (6),
amended

4. Section 74 of the said Act is repealed. s. 74,
repealed

5. Subsection 81 (5) of the said Act is repealed. s. 81 (5),
repealed

6. Subsection 84 (2) of the said Act is repealed and the following substituted therefor: s. 84 (2),
re-enacted

(2) Every treasurer who contravenes subsection (1) is guilty of an offence. Offence

7. The said Act is amended by adding thereto the following section: s. 104a,
enacted

104a.—(1) Every council may pass its by-laws and resolutions in English or in both English and French. English and
French
by-laws and
resolutions

(2) Every council may adopt an official plan that is in English or that is in both English and French. Official
plans

- Proceedings of council (3) Every council and every committee of council may conduct its proceedings in English or French or in both English and French.
- Minutes (4) Notwithstanding subsection (3), the minutes of the proceedings of council and all committees of council shall be kept in English or, where so authorized by a by-law of the council, in both English and French.
- Conduct of affairs, etc., of municipality (5) Unless otherwise directed by a by-law of the council, the officers and servants of a municipality may conduct the business and affairs of the municipality in such language, including a language other than English or French, as may be reasonable in the circumstances.
- Proviso (6) Nothing in this section,
 - (a) affects an obligation imposed by or under any Act to make, keep, use, file, register or submit any form, book, document or other paper of any kind in the language or languages specified by or under the Act;
 - (b) affects any requirement at law to give reasonable notice.
- Translations (7) Where any form, book, document or other paper of any kind is submitted by a municipality to a ministry of the Government of Ontario in French, the municipality shall, at the request of the minister of the ministry to which the form, book, document or other paper was submitted, supply the minister with an English translation thereof.
- s. 124 (12), re-enacted **8.**—(1) Subsection 124 (12) of the said Act is repealed and the following substituted therefor:
- Joint and several liability (12) All debentures issued under the authority of this section are direct, joint and several obligations of the municipality and the school board, and, in the case of debentures issued by a regional or district municipality or the County of Oxford, are direct, joint and several obligations of that municipality, the school board and the area municipalities as defined in the Act establishing that municipality, but nothing in this subsection affects the rights of that municipality, the school board and such area municipalities as among themselves.
- Ranking of debentures (12a) Notwithstanding any general or special Act or any differences in date of issue or maturity, every debenture issued by a municipality under the authority of this section shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the municipality,

except as to the availability of any sinking funds applicable to any particular issue of debentures.

- (2) Subsection 124 (15) of the said Act is repealed. s. 124 (15),
repealed
- 9.**—(1) Subsection 143 (4) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act* may by by-law, without the assent of the electors” in the second, third and fourth lines and inserting in lieu thereof “may by by-law”. s. 143 (4),
amended
- (2) Subsection 143 (5) of the said Act is amended by striking out “without the assent of the electors” in the first and second lines. s. 143 (5),
amended
- (3) Subsection 143 (15) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 143 (15),
amended
- 10.**—(1) Subsection 143a (1) of the said Act, as enacted by section 6 of the Statutes of Ontario, 1982, chapter 24, is amended by striking out “which by-law shall not require the assent of the electors” in the third and fourth lines. s. 143a (1),
amended
- (2) Subsection 143a (13) of the said Act is amended by striking out “the assent of the electors and” in the second line. s. 143a (13),
amended
- 11.** Clause 144 (a) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the first, second and third lines. s. 144 (a),
amended
- 12.**—(1) Subsection 146 (1) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second and third lines. s. 146 (1),
amended
- (2) Clause 146 (2) (b) of the said Act is amended by striking out “5” in the second line and inserting in lieu thereof “8”. s. 146 (2) (b),
amended
- 13.**—(1) Subsection 147 (1) of the said Act is amended by striking out “having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 147 (1),
amended
- (2) Clause 147 (2) (b) of the said Act is amended by striking out “5” in the fifth line and inserting in lieu thereof “8”. s. 147 (2) (b),
amended
- 14.**—(1) Subsection 149 (1) of the said Act is repealed and the following substituted therefor: s. 149 (1),
re-enacted

Corporation
may incur
debt

(1) Subject to the limitations in this or any other Act, a municipal corporation may incur a debt for the purposes of the municipality whether under this or under any other Act.

s. 149 (2),
amended

(2) Subsection 149 (2) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

O.M.B.
approval
not required
R.S.O. 1980,
c. 347

(2) Sections 64 and 65 of the *Ontario Municipal Board Act* do not apply so as to require Municipal Board approval with respect to any of the following undertakings, works, projects, schemes, acts, matters or things, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by the municipality, corporation or any other municipal corporation,

s. 149 (3),
re-enacted

(3) Subsection 149 (3) of the said Act is repealed and the following substituted therefor:

Notice

(3) Where a municipal corporation applies to the Municipal Board for the approval of the incurring of a debt, the Board may direct that notice of the proposal to incur the debt be given in such manner as the Board may require and that the notice state that anyone objecting to the proposal may, within such time from the giving of the notice as may be prescribed by the Board, file with the clerk of the municipal corporation an objection to the proposal and the clerk shall forthwith forward a copy of the objection to the secretary of the Board.

s. 150 (1),
re-enacted

15. Subsection 150 (1) of the said Act is repealed and the following substituted therefor:

Contracts for
supply of
public utility
R.S.O. 1980,
c. 303

(1) A municipal corporation may enter into a contract for the supply of any service of a public utility as defined in the *Municipal Affairs Act* or of sewage works to the municipal corporation for its use or for resale to the inhabitants thereof for their use for such term of years as the Municipal Board may approve and may renew such contract from time to time for such further term of years as the Municipal Board may approve.

s. 151 (1),
re-enacted

16. Subsection 151 (1) of the said Act is repealed and the following substituted therefor:

Special
power of
county to
borrow

(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure.

s. 152 (1),
amended

17.—(1) Subsection 152 (1) of the said Act is amended by striking out "without the assent of the electors" in the seventh and eighth lines.

- (2) Subsection 152 (2) of the said Act is repealed. s. 152 (2),
repealed
- 18.** Section 155 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$100” in the sixth and seventh lines. s. 155,
amended
- 19.** The said Act is further amended by adding thereto the following section: s. 160a,
enacted
- 160a.—(1) In this section, “non-profit hospital service corporation” means a corporation without share capital that provides laundry or food services to one or more public hospitals, as defined in the *Public Hospitals Act*. Interpre-
tation

R.S.O. 1980,
c. 410
- (2) Real property occupied by a non-profit hospital service corporation and used chiefly and preponderantly by the corporation for one or both of the services mentioned in subsection (1) is exempt from taxation for municipal and school purposes but is not exempt from a sewage service rate that is imposed under subsection 218 (16) and that is based on the water rate. Tax
exemption
- (3) In each year, the Minister may pay to a local municipality, in which there is real property exempted from taxation under subsection (2), an amount equal to the taxes for municipal purposes that would have been payable in respect of that real property in that year if the real property had been subject to municipal taxation. Payment
in lieu
of taxes
- (4) Subsections 160 (12) to (19) apply with necessary modifications to an amount paid by the Minister to a local municipality under subsection (3) as though such amount were an amount levied by that local municipality under section 160. Apportion-
ment
- (5) For the purposes of subclause 365 (1) (j) (iii) an amount paid by the Minister to a local municipality under subsection (3) shall be deemed to have been received by the municipality under section 160. Idem
- 20.** Subsection 170 (2) of the said Act is amended by striking out “having a population of not less than 20,000, as determined under the *Ontario Unconditional Grants Act*” in the second, third and fourth lines. s. 170 (2),
amended
- 21.** Subsection 178 (2) of the said Act is repealed and the following substituted therefor: s. 178 (2),
re-enacted
- (2) Every treasurer who contravenes subsection (1) is guilty of an offence. Offence

s. 196 (10),
amended

22. Subsection 196 (10) of the said Act is amended by striking out “without the assent of the electors and” in the first and second lines.

s. 208,
par. 25 (a),
repealed

23.—(1) Clause (a) of paragraph 25 of section 208 of the said Act is repealed.

s. 208,
par. 43 (d),
amended

(2) Clause (d) of paragraph 43 of the said section 208 is amended by striking out “and on conviction is liable to a penalty of not more than \$50” in the sixth and seventh lines.

s. 208,
par. 56 (a),
re-enacted;
par. 56 (b, e),
repealed
Incorporation
and members

(3) Clauses (a), (b) and (e) of paragraph 56 of the said section 208 are repealed and the following substituted therefor:

(a) A parking authority established under this paragraph is a body corporate and shall consist of three members appointed by the council of the municipality, each of whom shall be either a member of the council of the municipality or qualified to be elected as a member thereof, and the members so appointed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed.

s. 208, par. 57,
amended

(4) Paragraph 57 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Special
undertakings

57. For acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community recreation centres, stadia, museums, including public historical museums and similar buildings, within or outside the municipality and any such undertaking may be for the purpose of commemorating or honouring persons or events.

s. 210, par. 49,
amended

24.—(1) Clause (a) of subparagraph v of paragraph 49 of section 210 of the said Act is repealed.

s. 210,
par. 51 (b),
repealed

(2) Clause (b) of paragraph 51 of the said section 210 is repealed.

s. 210,
par. 92 (a),
repealed

(3) Clause (a) of paragraph 92 of the said section 210 is repealed.

s. 210, par. 94,
re-enacted

(4) Paragraph 94 of the said section 210 is repealed and the following substituted therefor:

94. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law, but this paragraph does not apply to the slaughter of animals on land assessed as farm property for the use of the occupants of the property.

Slaughter
houses

25.—(1) Clause 218 (7) (d) of the said Act is repealed and the following substituted therefor:

s. 218 (7) (d),
re-enacted

(d) Either a mill rate on the assessed value of the lands designated under subsection (4) or a mill rate on the assessed value of the lands designated under subsection (4) and on the business assessment assessed against persons occupying or using the lands for the purpose of or in connection with a business.

(2) Subsection 218 (14) of the said Act is amended by adding thereto the following clause:

s. 218 (14),
amended

(c) provide for increasing the metre frontage rate upon lands that are triangular or irregularly shaped and for terminating the increased rate upon a basis that is equitable and just.

(3) Subsection 218 (15) of the said Act is repealed and the following substituted therefor:

s. 218 (15),
re-enacted

(15) The council may by a general by-law or by a by-law applicable to the particular work prescribe terms and conditions upon which persons whose lands are liable to a sewer rate or water works rate imposed by a by-law under this section may commute such rate for a payment in cash.

Commutation

(4) A by-law passed under subsection 218 (2) of the *Municipal Act*, or a predecessor thereof, prior to the coming into force of this section, is not invalid by reason only of the fact that the sewer rate or a water works rate imposed by it has been computed on the basis of a mill rate on the assessed value of lands and on the business assessment assessed against persons occupying or using such lands for the purpose of or in connection with a business and, in such case, the rate shall continue to be computed in the same manner until the by-law is repealed or amended to provide otherwise.

Saving
R.S.O. 1980,
c. 302

26. Paragraph 6 of section 225 of the said Act is repealed.

s. 225, par. 6,
repealed

27. Subsection 272 (1) of the said Act is repealed and the following substituted therefor:

s. 272 (1),
re-enacted

Abandonment
by county
of roads

(1) The council of a county may by by-law abandon the whole or any part of any road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county.

s. 287,
repealed

28.—(1) Section 287 of the said Act is repealed.

Saving
R.S.O. 1980,
c. 302

(2) The repeal of section 287 of the *Municipal Act* does not affect the rights of any person arising from debentures issued under a by-law passed under that section prior to the coming into force of this section.

s. 298 (1) (f),
re-enacted

29. Clause 298 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) for permitting subways under and bridges over any highway upon such conditions as the council considers advisable.

s. 312,
repealed

30.—(1) Section 312 of the said Act is repealed.

Saving

(2) The repeal of section 312 of the *Municipal Act* does not affect the rights of any municipality arising from shares held by the municipality or the rights or obligations of the municipality in respect of loans or guarantees made by it where the shares were subscribed or the loans or guarantees were made under a by-law passed under that section prior to the coming into force of this section.

s. 342 (1),
amended

31. Subsection 342 (1) of the said Act is amended by striking out “shall submit for the assent of the electors of the village and, if it receives such assent” in the third and fourth lines.

s. 343 (4),
repealed

32. Subsection 343 (4) of the said Act is repealed.

s. 345 (1),
re-enacted

33.—(1) Subsection 345 (1) of the said Act is repealed and the following substituted therefor:

Acquiring
land for
parks,
exhibitions,
etc.

(1) Upon the petition of three-fourths of the persons qualified to vote at an election of trustees for a police village, the council of the township in which the police village is situate may pass a by-law for acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council considers necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

s. 345 (6),
repealed

(2) Subsection 345 (6) of the said Act is repealed.

- 34.** Section 346 of the said Act is repealed and the following substituted therefor: s. 346, re-enacted

346.—(1) Notwithstanding sections 342, 343 and 344, where a police village comprises parts of two or more townships the trustees of the police village have all the powers of a council of a village to pass by-laws for the purposes mentioned in those sections, but this subsection does not authorize the trustees of a police village to issue debentures. Trustees to pass money by-laws where village situate in two or more townships

(2) A by-law passed under subsection (1) shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 336 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 337. Proportions of debt

(3) The trustees shall serve a certified copy of a by-law passed under subsection (1) upon the clerk of each of the townships within which a part of the police village is situate. Certified copy for each township

(4) The council of each township shall forthwith thereafter pass a by-law for raising the amount that is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it is not necessary that such by-law impose any rate for the payment of the debentures. By-law of township for raising money

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. Special rates

- 35.**—(1) Subsection 379 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 379 (1), amended

(2) Subsection 379 (2) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 379 (2), amended

- 36.** Subsection 380 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first and second lines and inserting in lieu thereof “local municipalities”. s. 380 (1), amended

- 37.** Subsection 386 (1) of the said Act is amended by striking out “cities, towns, villages and townships” in the first line and inserting in lieu thereof “local municipalities”. s. 386 (1), amended

s. 473,
re-enacted

38. Section 473 of the said Act is repealed and the following substituted therefor:

Offence for
officers
failing to
perform
their duty

473. Every treasurer, clerk or other officer who refuses or neglects to perform any duty required of him by this Part is guilty of an offence.

s. 474,
repealed

39. Section 474 of the said Act is repealed.

s. 483,
amended

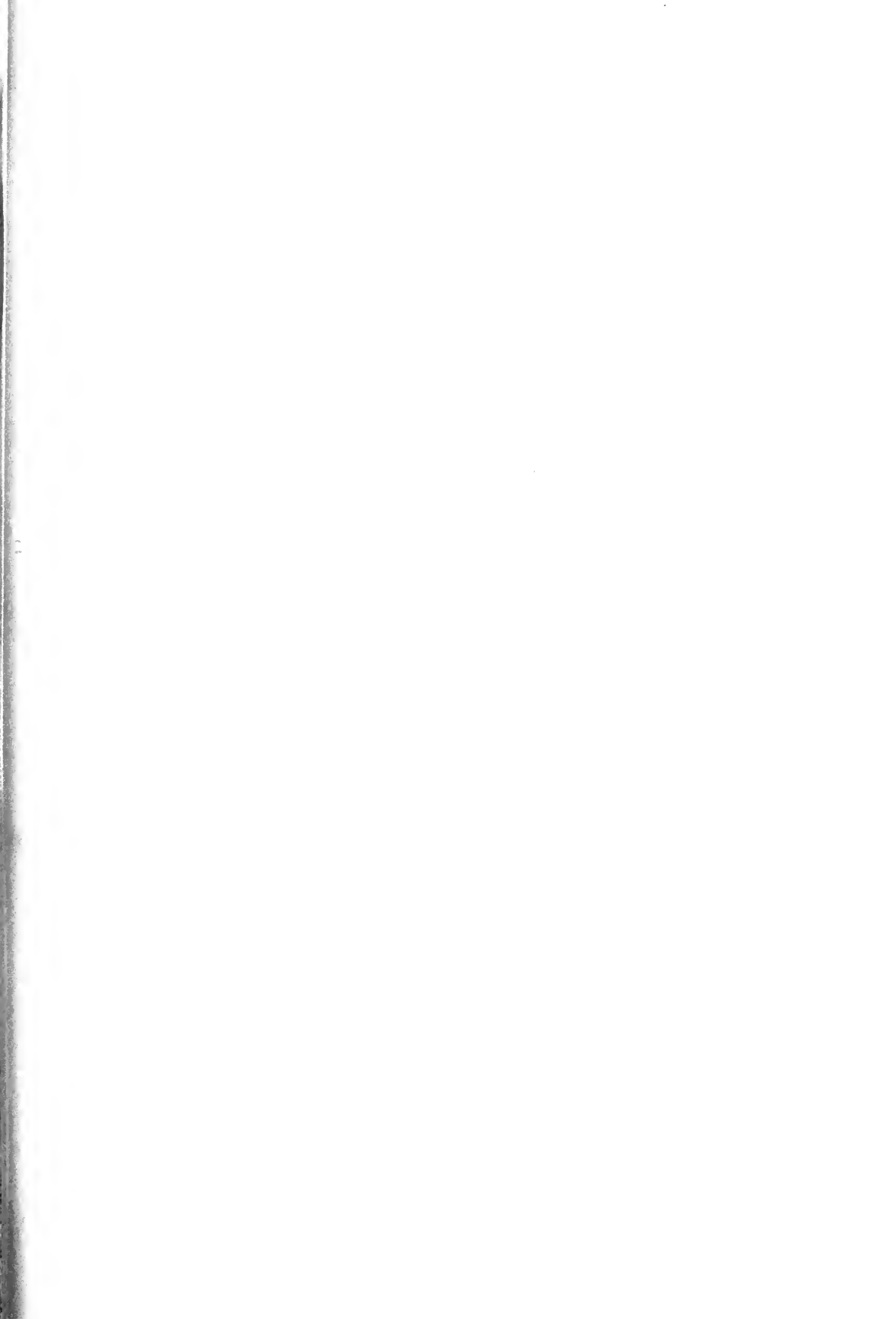
40. Section 483 of the said Act is amended by striking out “and on conviction is liable to a fine of not more than \$200” in the third and fourth lines.

Commence-
ment

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

Short title

42. The short title of this Act is the *Municipal Amendment Act, 1982*.







An Act to amend the Municipal Act

1st Reading

June 17th, 1982

2nd Reading

November 2nd, 1982

3rd Reading

November 16th, 1982

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

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide Temporary Relief to Mortgagors of
Residential Property in Ontario**

MR. RENWICK

EXPLANATORY NOTE

The purpose of the Bill is to protect homeowners in their homes by providing a moratorium until March 31st, 1984 on court proceedings for foreclosure, exercise of a power of sale or recovery of payments of principal and interest under a residential mortgage and by providing that any residential mortgage coming due before March 31st, 1984 shall continue in effect with the same terms and conditions until that date if the mortgagor so requires.

BILL 151

1982

An Act to provide Temporary Relief to Mortgagors of Residential Property in Ontario

WHEREAS the interest rate on mortgages of residential Preamble
property in Ontario has attained unprecedented levels, and
whereas there exists pressure for the continued upward move-
ment in the interest rate; and whereas many mortgagors must
refinance mortgages in the course of the next year; and whereas it
is desirable to provide relief to mortgagors during this period of
uncertainty until appropriate economic policies can be
implemented to alleviate the current emergency situation;

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, "mortgage" means any mortgage of land or Inter-
pre-
tation
premises used for residential purposes made or executed before
the 1st day of May, 1984, and includes any renewal or extension
of the mortgage.
2. No person shall take or continue any action or proceeding, Proceedings
not to be
taken
 - (a) by way of foreclosure or sale or otherwise, or proceed to
execution on or otherwise to the enforcement of, any
judgment or order of any court for the recovery of prin-
cipal money or interest secured by any mortgage of
land;
 - (b) under any power of sale or levy any distress or take,
resume or enter into possession of any land for the
recovery of principal money or interest under any
power contained in a mortgage of land; or
 - (c) for the recovery of any part of the principal money or
interest secured by any mortgage of land payable by the
mortgagor or by any other person as principal or
guarantor upon any covenant or agreement or enforce
by execution or other process any judgment obtained in
respect of any such covenant or agreement,

until the 31st day of March, 1984.

Application
of s. 2

3. Section 2 applies only where,

(a) the mortgagor resides upon or occupies the land or premises covered by the mortgage; and

(b) default has been made in the payment of principal or interest by the mortgagor or any other person liable to make the payment under the mortgage.

Mortgage
continued at
mortgagor's
option

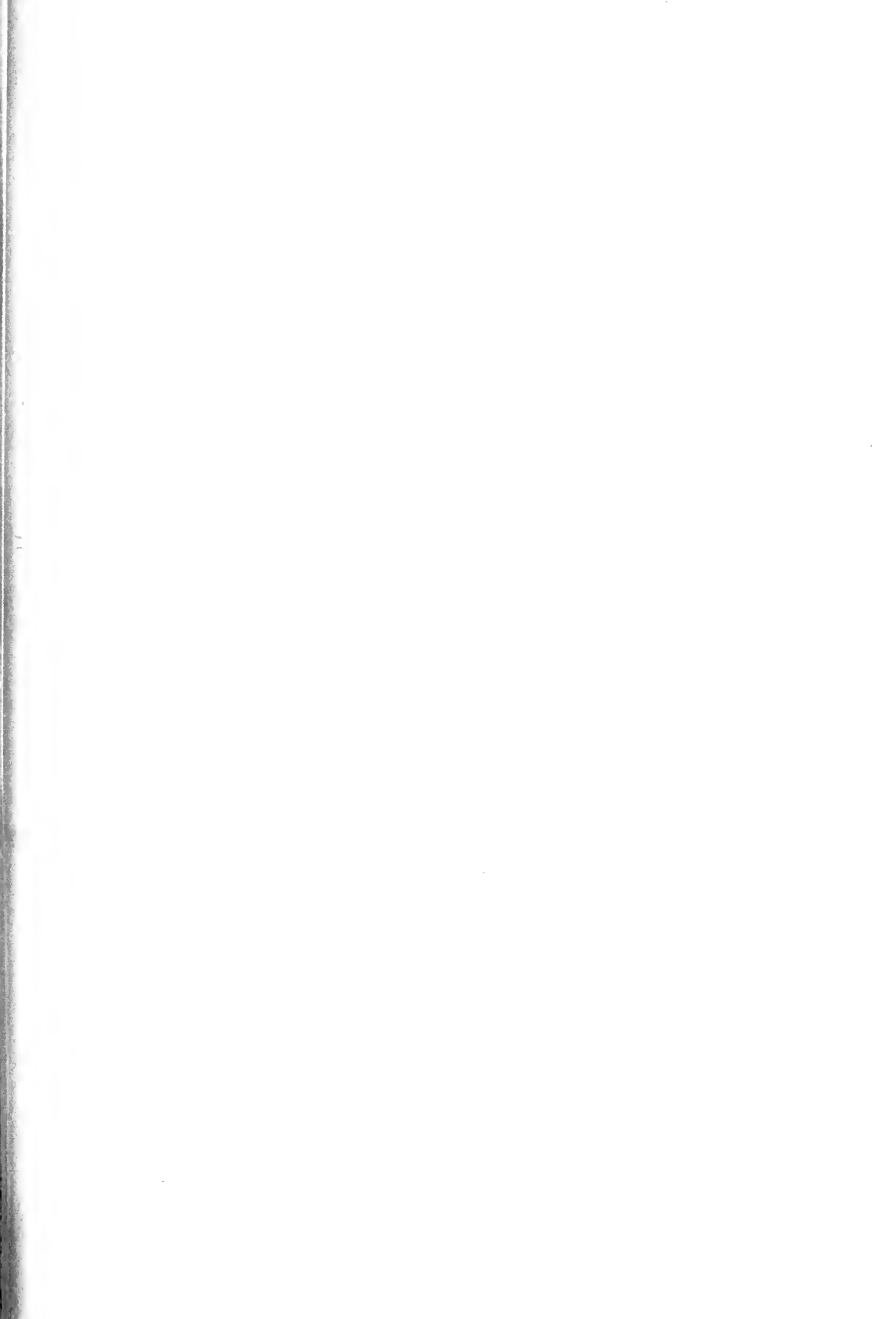
4. Where a mortgage is due to expire between the day on which this Act comes into force and the 31st day of March, 1984, if the mortgagor notifies the mortgagee in writing before the expiry date of the mortgage that the mortgagor wishes the mortgage to continue in effect with the same terms and conditions until the 31st day of March, 1984, the mortgage shall be deemed to continue in effect, with the same terms and conditions, until the 31st day of March, 1984.

Commence-
ment

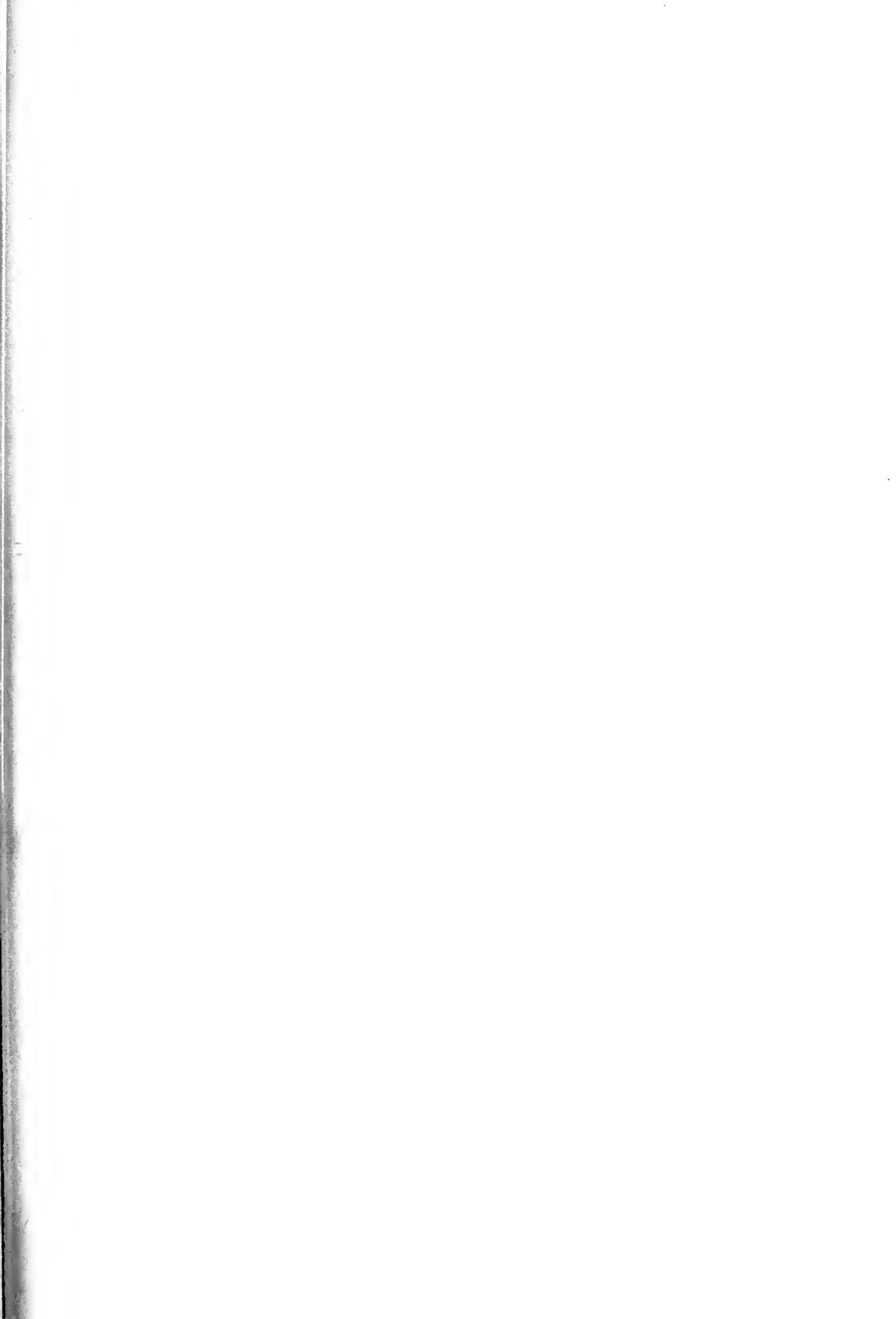
5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Mortgagors' Relief Act, 1982*.







An Act to provide Temporary Relief to
Mortgagors of Residential Property
in Ontario

1st Reading

June 21st, 1982

2nd Reading

3rd Reading

MR. RENWICK

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to establish The Electoral District of Queen's Park

MR. BREAGH

EXPLANATORY NOTE

The Bill provides a special constituency, to be known as Queen's Park, for the Speaker of the Legislative Assembly of Ontario. The Speaker's term would continue through two successive Legislatures, beginning and ending at mid-session.

The total number of members would consequently be increased by one.

BILL 152

1982

**An Act to establish
The Electoral District of Queen's Park**

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

1. Section 2 of the *Representation Act*, being chapter 450 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 2. The Legislative Assembly of Ontario shall consist of one hundred and twenty-six members. s. 2, re-enacted; s. 2a, enacted
 - 2a.—(1) The member for The Electoral District of Queen's Park shall be nominated and elected by the members of the Assembly from among themselves at the first meeting of the first session of the Thirty-Third Legislature, and the term of office of the member so elected expires on a day that is eighteen months after the member's election. Number of members
 - (2) Upon the expiry of the term of office of the member for The Electoral District of Queen's Park, the members of the Assembly shall nominate and elect from among themselves a person to be the member for The Electoral District of Queen's Park for a term of office that expires on a day that is eighteen months after the general election next following the member's election. Election of member for Queen's Park
 - (3) The member for The Electoral District of Queen's Park may be re-elected in the same manner for one further term of office. Idem
 - (4) The member for The Electoral District of Queen's Park is the Speaker of the Assembly and shall not hold another seat in the Assembly during his or her term of office as member for The Electoral District of Queen's Park. Second term
 - (5) If the seat for The Electoral District of Queen's Park becomes vacant before the expiry of the member's term of office, Member for Queen's Park to be Speaker
- (5) If the seat for The Electoral District of Queen's Park becomes vacant before the expiry of the member's term of office, Vacancy

the members of the Assembly shall nominate and elect from among themselves a person to hold office for the unexpired portion of the term.

R.S.O. 1980,
c. 133 does
not apply

(6) The *Election Act* does not apply to the nomination and election of the member for The Electoral District of Queen's Park.

Schedule,
amended

2.—(1) The Schedule to the said Act is amended by adding at the end of the description of The Electoral District of St. Andrew-St. Patrick “except the Chamber of the Legislative Assembly of Ontario and such other parts of the Legislative Building as are brought under the control of the Speaker under Section 94 of the *Legislative Assembly Act*”.

R.S.O. 1980,
c. 235

Idem

(2) The said Schedule is further amended by adding thereto the following:

THE ELECTORAL DISTRICT OF QUEEN'S PARK—
consists of the Chamber of the Legislative Assembly of Ontario and such other parts of the Legislative Building as are brought under the control of the Speaker under Section 94 of the *Legislative Assembly Act*.

Commence-
ment

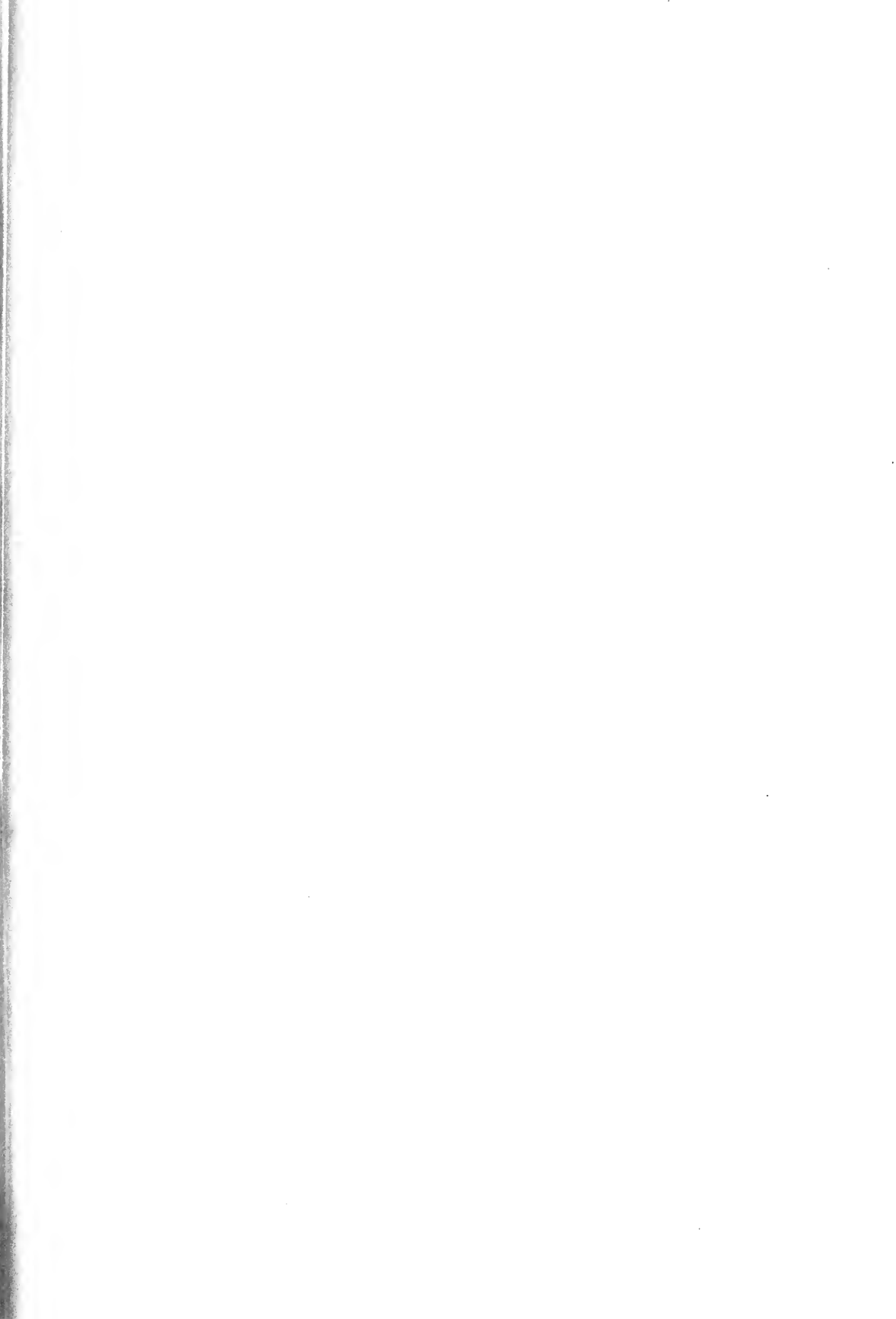
3. This Act comes into force on the day that the Thirty-Second Legislature is dissolved.

Short title

4. The short title of this Act is the *Representation Amendment Act, 1982*.







An Act to establish
The Electoral District of Queen's Park

1st Reading

June 21st, 1982

2nd Reading

3rd Reading

MR. BREAVGH

(Private Member's Bill)

BILL 153

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Fair Pricing of Products
and Services sold to Consumers in Ontario**

MR. SWART

EXPLANATORY NOTE

The purpose of the Bill is to require a fair price for every product and service sold to consumers in Ontario. Where a retail seller charges an unfair price, the Bill sets out procedures and remedies for ensuring compliance with the fair pricing requirement. The Bill provides for an appeal of fair pricing orders to The Commercial Registration Appeal Tribunal.

BILL 153

1982

**An Act to provide for the
Fair Pricing of Products and Services sold to
Consumers 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) "Director" means the Director under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980,
c. 274
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "product" means an item of goods;
- (d) "retail seller" means a person who offers a product or service for sale but not for resale;
- (e) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*.

2. Every retail seller of products and services in Ontario shall offer each product or service for sale at a price that is fair to the consumer having regard to the costs of producing, distributing and marketing the product or service. Fair prices
required

3. Where, upon the complaint of a person or upon his own motion, the Director believes on reasonable and probable grounds that a retail seller is charging or has charged an unfair price for a product or service, the Director may order the retail seller to comply with section 2 in respect of the product or service specified in the order and the Director may, in the order, establish a fair price for the product or service. Order to
cease
charging
unfair
price

- Notice of proposal **4.**—(1) Where the Director proposes to make an order under section 3, he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor.
- Request for hearing (2) A notice under subsection (1) shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection (1) is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing.
- Failure to request hearing (3) Where a person upon whom a notice is served under subsection (1) does not require a hearing by the Tribunal in accordance with subsection (2), the Director may carry out the proposal stated in the notice.
- Hearing (4) Where a person 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 Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director 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 Director.
- Conditions (5) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.
- Parties (6) The Director and the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
- Order for immediate compliance **5.**—(1) Notwithstanding section 4, the Director may make an order under section 3 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and subject to subsections (3) and (4), the order takes effect immediately.
- Notice of order (2) Where the Director makes an order under subsection (1), he shall serve each person named in the order with a copy of the order together with written reasons therefor, and a notice containing the information required to be in a notice referred to in subsections 4 (1) and (2).
- Hearing (3) Where a person named in the order requires a hearing by the Tribunal in accordance with the notice under subsection (2), the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 4.

(4) Where a hearing by the Tribunal is required, the order expires thirty days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the order, the Tribunal may extend the time of expiration until the hearing is concluded. Expiration of order

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

6. Notwithstanding that, under section 11 of the *Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 4 or 5, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. Stay
R.S.O. 1980,
c. 274

7.—(1) Any person against whom the Director proposes to make an order to comply with section 2 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not charge the specified unfair price 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

8. 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*, which Part applies to such investigation as if it were an inquiry under that Act. Investigations by order of Minister

R.S.O. 1980,
c. 411

9. 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. Service of notice

10.—(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; or

(c) obstructs a person making an investigation under section 8,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem (2) Every person who charges an unfair practice price knowing it to be an unfair price is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporation (3) Where a corporation is convicted of an offence under subsection (1) or (2), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Directors and officers (4) Where a corporation has been convicted of an offence under subsection (1) or (2),

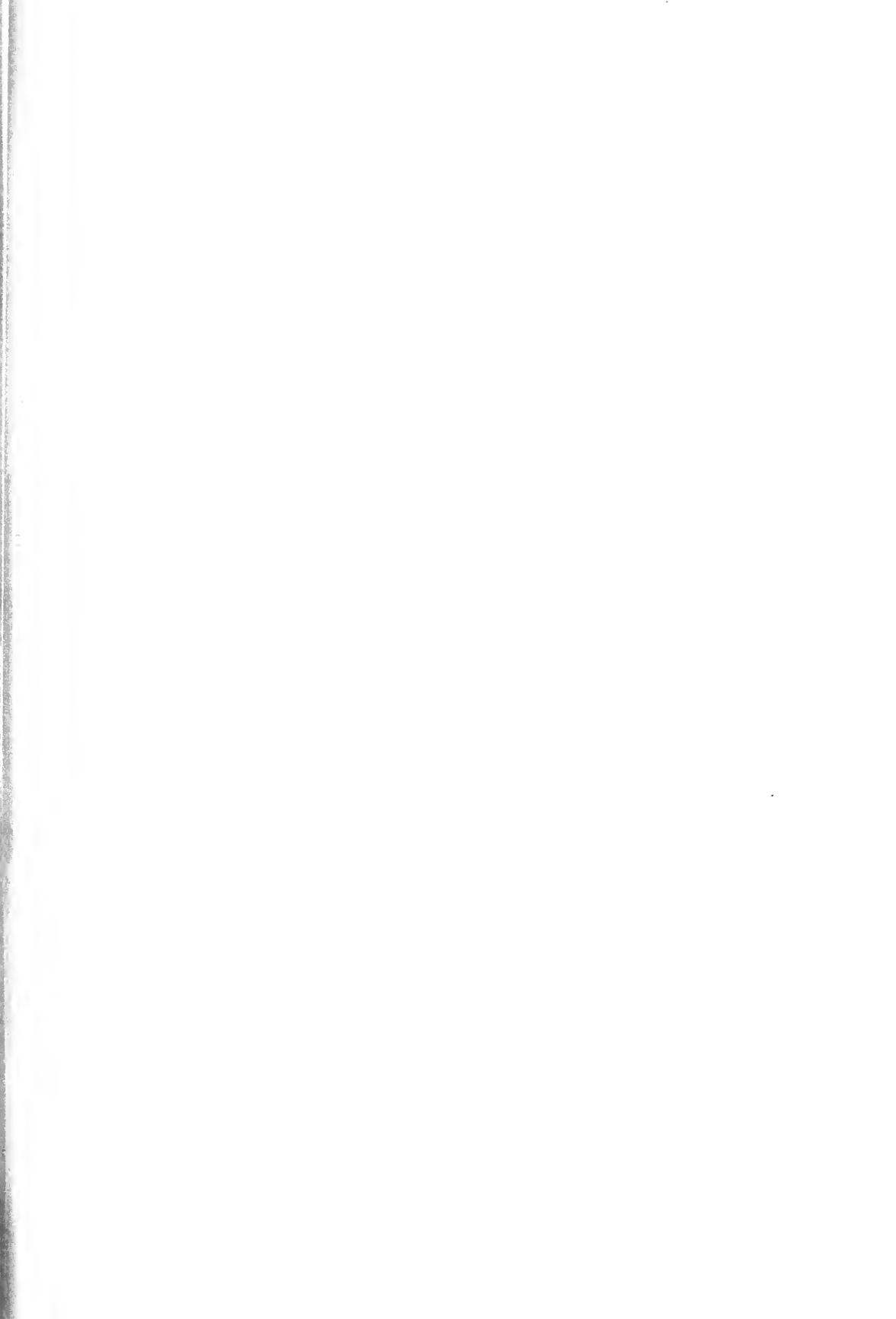
(a) each director of the corporation; and

(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.

Commencement **11.** This Act comes into force on the day it receives Royal Assent.

Short title **12.** The short title of this Act is the *Fair Pricing Act, 1982*.



An Act to provide for the
Fair Pricing of Products and Services
sold to Consumers in Ontario

1st Reading

June 22nd, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

BILL 154

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Consumer Protection Act

MR. SWART

EXPLANATORY NOTE

The purpose of the Bill is to require that every product offered for sale bearing a product code must also be marked with its purchase price. The Bill prohibits increases in the purchase price of a product above the price initially marked on it by the retailer. The Bill also provides that if the price marked on the product differs from the price associated with the product code, the purchase price of the product is the lower of the two prices.

BILL 154

1982

An Act to amend the Consumer Protection Act

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

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 38a,
enacted

38a.—(1) In this section,

Interpre-
tation

- (a) “product” means an item of goods and includes a wrapper or container of goods;
- (b) “product code” means a marking on a product designed to be read by a computer device for the purpose of identifying the product and includes the universal product code;
- (c) “retail seller” means a person who offers a product for sale but not for resale.

(2) No retail seller shall offer for sale a product that is marked with a product code unless the purchase price of the product is clearly and legibly marked on the product. Purchase
price
marking
required

(3) No retail seller shall, at any time after a product is offered for sale, increase the purchase price of the product to a price higher than the purchase price initially marked on the product. Alteration of
purchase
price

(4) Where the purchase price marked on a product differs from the purchase price identified by a computer device, the purchase price of the product shall be the lower of the two prices. Purchase
price lower
of two
prices

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Consumer Protection Amendment Act, 1982*. Short title

An Act to amend the
Consumer Protection Act

1st Reading

June 22nd, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to establish
The Automobile Insurance Rate Control Board**

MR. SWART

EXPLANATORY NOTE

The Bill establishes an automobile insurance rate control board that would have the power to approve and fix rates and to conduct public hearings dealing with rate increases.

BILL 155

1982

An Act to establish The Automobile Insurance Rate Control Board

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

1. In this Act, Interpre-
tation
 - (a) "Board" means The Automobile Insurance Rate Control Board;
 - (b) "Minister" means the Minister of Consumer and Commercial Relations.

- 2.—(1) A board to be known as "The Automobile Insurance Rate Control Board" is hereby established. Board
established
 - (2) The Board shall be composed of not fewer than seven and not more than nine members appointed by the Lieutenant Governor in Council from among representatives of labour, consumer and other citizens' groups. Composition

3. The Lieutenant Governor in Council may designate one of the members to be chairman of the Board. Chairman

4. Five members of the Board constitute a quorum. Quorum

5. The Lieutenant Governor in Council may fill any vacancy among the members of the Board. Vacancies

6. Subject to the provisions of the *Statutory Powers Procedure Act*, the Board may determine its own procedure for the conduct of hearings. Procedure
R.S.O. 1980,
c. 484

7. The objects of the Board are and it has power, Objects
and
powers
 - (a) to fix rates applicable to automobile insurance generally and specifically between classifications;

(b) to approve automobile insurance rate increases; and

(c) to conduct public hearings with respect to applications by insurance companies for rate increases.

Decision
final

8. A decision of the Board under section 7 is final and not subject to appeal.

Annual
report

9. The Board 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.

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 *Automobile Insurance Rate Control Act, 1982*.







An Act to establish The
Automobile Insurance Rate Control Board

1st Reading

June 22nd, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Milk Act

MR. SWART

EXPLANATORY NOTE

The Bill would permit The Milk Commission of Ontario to determine prices at the retail as well as at the wholesale level for milk, skim milk, buttermilk, flavoured milk and cream.

BILL 156

1982

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. Subsection 8 (1) of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:
 - 16a. determining from time to time the maximum and minimum prices that shall be paid at the wholesale and retail levels for fluid milk products or any class, variety or size of fluid milk products, determining different maximum and minimum prices for different parts of Ontario, and prohibiting the sale of fluid milk products at prices above or below the applicable maximum or minimum prices.
2. This Act comes into force on the day it receives Royal Assent. s. 8 (1),
amended Commence-
ment
3. The short title of this Act is the *Milk Amendment Act, 1982*. Short title

An Act to amend the Milk Act

1st Reading

June 22nd, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Boilers and Pressure Vessels Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1. Section 32 of the Act now provides that where a boiler, etc., is unsafe, no major repairs shall be made until an inspector has approved them and that the boiler, etc., is not to be put into operation again until a new inspection certificate is issued by the chief inspector.

The new provisions provide that where the boiler, etc., is insured, the insurer may perform the duties of the inspector and may issue the certificate.

SECTION 2. Section 36 of the Act deals with welding operators and their employment. The new provision clarifies the meaning of "employer".

SECTION 3. The addition to the authority to make regulations is complementary to section 1 of the Bill.

BILL 157

1982

An Act to amend the Boilers and Pressure Vessels Act

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

1. Section 32 of the *Boilers and Pressure Vessels Act*, being chapter 46 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 32, re-enacted

32.—(1) Subject to subsections (2) and (3), where a boiler, pressure vessel or plant is found to be in an unsafe condition, no person shall make any major repairs thereto until he has notified an inspector of the nature and extent of such repairs and an inspector has concurred therewith, and the boiler, pressure vessel or plant shall not be put into operation or use until a further inspection by an inspector has been made and the chief inspector has issued a new certificate of inspection therefor. Repairs to boilers, etc., found unsafe

(2) Where a boiler, pressure vessel or plant referred to in subsection (1) is insured, the concurrence and inspection required under subsection (1) may be made by or through the insurer and the insurer may issue a new certificate of inspection therefor. Idem

(3) The chief inspector may exempt in writing the owner of a plant that is normally operated twenty-four hours a day for seven days a week from the requirements of subsection (1) where he is satisfied that the repairs will be carried out in a safe and proper manner and subject to such terms and conditions as are prescribed in the regulations or required by the chief inspector. Exemption by chief inspector

2. Section 36 of the said Act is amended by adding thereto the following subsection: s. 36, amended

(12) In this section, "employer" includes a trade association of persons or companies whose business includes welding. Interpretation

3. Section 42 of the said Act is amended by adding thereto the following clause: s. 42, amended

(t) prescribing terms to which exemptions made under section 32 of the Act are subject.

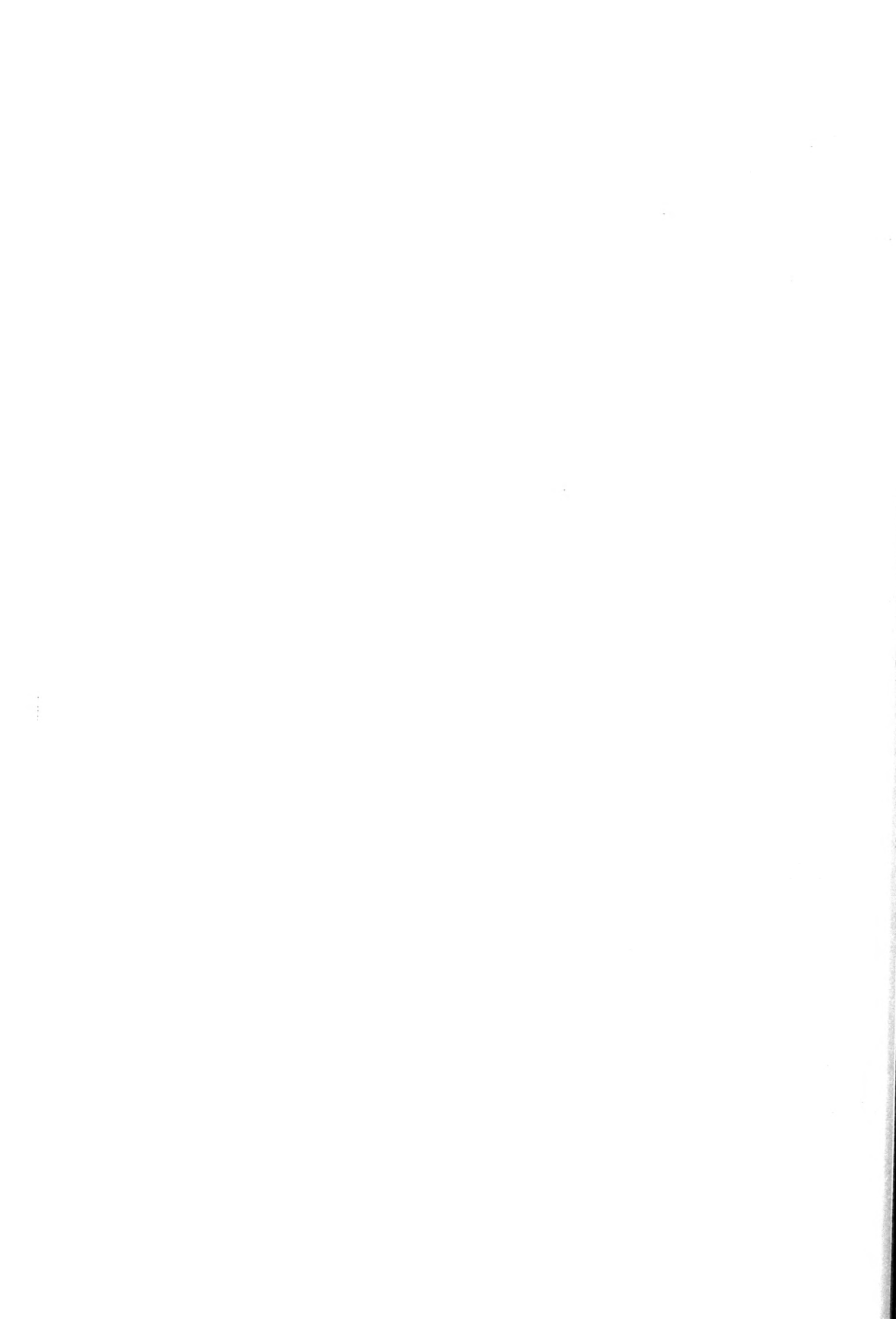
Commence-
ment

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 *Boilers and Pressure Vessels Amendment Act, 1982*.







An Act to amend the
Boilers and Pressure Vessels Act

1st Reading

June 24th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Collection Agencies Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Act currently sets out, in section 22, certain prohibited practices. Clause 30 (*l*) authorizes the prohibition by regulation of certain methods of collecting debts.

The distinction between a practice and a method is not clear in all cases. Rather than have practices prohibited by the Act and methods prohibited by the regulations, the amendment would prohibit in the Act certain practices and methods. The practices to be prohibited are those currently set out in section 22 together with any that may be prescribed by regulation. The methods to be prohibited will be those prescribed by the regulations.

BILL 158

1982

An Act to amend the Collection Agencies Act

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

1. Section 22 of the *Collection Agencies Act*, being chapter 73 of the Revised Statutes of Ontario, 1980, is amended by striking out "or" at the end of clause (c), by adding "or" at the end of clause (d) and by adding thereto the following clause:
 - (e) engage in any prohibited practice or employ any prohibited method in the collection of debts.
2. Clause 30 (l) of the said Act is repealed and the following substituted therefor:
 - (l) prescribing prohibited practices and methods for the purpose of section 22.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is the *Collection Agencies Amendment Act, 1982*.

s. 22,
amendeds. 30 (l),
re-enactedCommence-
ment

Short title

An Act to amend the
Collection Agencies Act

1st Reading

June 24th, 1982

2nd Reading

3rd Reading

THE HON. R. G. EIGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to revise the Planning Act

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

(Reprinted as amended by the General Government Committee)



The Bill is divided into the following Parts:

	Pages
PART I — Provincial Administration	2—5
PART II — Local Planning Administration	5—8
PART III — Official Plans	8—17
PART IV — Community Improvement	17—29
PART V — Land Use Controls and Related Administration	29—51
PART VI — Subdivision of Land	51—70
PART VII — General	70—76

EXPLANATORY NOTES

The Bill is a revision of the *Planning Act*.

Many of the provisions of that Act, as they now exist, have been carried forward in the Bill, but within a re-organized format. The principal changes include:

1. Provincial interests in municipal planning are broadly identified to form a framework for local decision-making.
2. Provision is made for the Province to issue statements of policy, approved by the Lieutenant Governor in Council, on specific matters related to municipal planning.
3. The delegation of the powers of approval of the Minister of Municipal Affairs and Housing will be extended from regional municipalities to counties, cities outside of regional municipalities, separated towns, and other municipalities, provided specific criteria are met.
4. Provincial ministries, boards and agencies must consult and take local planning policies into account in carrying out activities that affect municipalities.
5. In southern Ontario, planning between two or more municipalities becomes a voluntary matter; in northern Ontario the existing provisions for joint planning remain.
6. Planning boards will no longer have a statutory role to plan in southern Ontario and this responsibility will rest directly with municipal councils.
7. Official plans will be focused primarily on physical matters, but attention will have to be paid to social, economic and environmental concerns in developing such plans.
8. Before adopting an official plan or zoning by-law, a municipality will have to ensure that adequate information is made available and for that purpose to hold at least one public meeting at which any person who attends will be afforded an opportunity to make representations.
9. Petitions to the Lieutenant Governor in Council on planning matters will be discontinued; instead the Municipal Board will hear and decide all planning appeals, but the Minister will be able to define a matter to be of provincial interest in which case the Board's decision is not final and binding unless the Lieutenant Governor in Council has confirmed the decision.
10. If a matter of provincial interest, as set out in an approved policy statement, is at stake, the Minister may request a municipality to amend its official plan.
11. Once an upper-tier official plan has been approved, all lower-tier official plans and zoning by-laws must be brought into conformity with the upper-tier plan.
12. The existing system of controlling the development of land through zoning is retained, while being expanded and clarified to allow municipalities specific zoning controls in different types of by-laws.

13. With some exceptions in northern Ontario, land severances will be granted by regional municipalities, counties and cities outside of regions, with provision for regional municipalities and counties to delegate consents to any local municipality with the Minister's concurrence.
14. The matters to be considered in approving a subdivision plan have been expanded to include the effect of the physical layout on energy conservation measures.
15. Ontario Hydro will be exempt from the provisions of the Act, except for lands and buildings used for executive and administrative purposes and except for undertakings of Ontario Hydro, unless approved under the *Environmental Assessment Act*.
16. The penalties that can be imposed for the violation of municipal by-laws under the Act have been substantially increased.
17. The different time periods for notice, referral and appeal provided for throughout the Act have been made as consistent as possible.

Provision is made for the dissolution of planning areas and planning boards in southern Ontario and for their continuation in northern Ontario; for the continuation of official plans in effect prior to the coming into force of the new Act, and for the disposition of various matters and proceedings that have been commenced, but not completed, under the existing *Planning Act* prior to the coming into force of the new Act.



BILL 159

1982

An Act to revise 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. In this Act,

Interpre-
tation

- (a) "committee of adjustment" means a committee of adjustment constituted under section 43;
- (b) "land division committee" means a land division committee constituted under section 55;
- (c) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;
- (d) "local municipality" means a city, town, village and township;
- (e) "Minister" means the Minister of Municipal Affairs and Housing;
- (f) "Municipal Board" means the Ontario Municipal Board;
- (g) "municipality" means a local municipality, a county and a regional, metropolitan or district municipality;
- (h) "official plan" means a document approved by the Minister, containing objectives and policies established primarily to provide guidance for the physical development of a municipality or a part thereof or an

area that is without municipal organization, while having regard to relevant social, economic and environmental matters;

- (i) "prescribed" means prescribed by the regulations;
- (j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality or a local board;
- (k) "regulations" means regulations made under this Act.

PART I

PROVINCIAL ADMINISTRATION

Responsi-
bility of
Minister

2. The Minister, in carrying out his responsibilities under this Act, will have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of the natural environment, including the agricultural resource base of the Province, and the management of natural resources;
- (b) the protection of features of significant natural, architectural, historical or archaeological interest;
- (c) the supply, efficient use and conservation of energy;
- (d) the provision of major communication, servicing and transportation facilities;
- (e) the equitable distribution of educational, health and other social facilities;
- (f) the co-ordination of planning activities of municipalities and other public bodies;
- (g) the resolution of planning conflicts involving municipalities and other public bodies;
- (h) the health and safety of the population; and
- (i) the protection of the financial and economic well-being of the Province and its municipalities.

3.—(1) The Minister, or the Minister together with any other minister of the Crown, may from time to time issue policy statements that have been approved by the Lieutenant Governor in Council on matters relating to municipal planning that in the opinion of the Minister are of provincial interest.

Policy statements

(2) Before issuing a policy statement, the Minister shall confer with such municipal, provincial, federal or other officials and bodies or persons as the Minister considers have an interest in the proposed statement.

Minister to confer

(3) Where a policy statement is issued under subsection (1), the Minister shall cause it to be published in *The Ontario Gazette* and he shall give or cause to be given such further notice thereof, in such manner as he considers appropriate, to all members of the Assembly, to all municipalities and to such other agencies, organizations or persons as he considers have an interest in the statement.

Notice

(4) Each municipality that receives notice of a policy statement under subsection (3) shall in turn give notice of the statement to each local board of the municipality that it considers has an interest in the statement.

Idem

(5) In exercising any authority that affects any planning matter, the council of every municipality, every local board, every minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro, shall have regard to policy statements issued under subsection (1).

Regard to be had to policy statements

4.—(1) The Minister, on the request of the council of any municipality, may, by order, delegate to the council any of the Minister's authority under this Act other than the authority to approve the official plan or amendments thereto of the municipality of which it is the council, under section 50 of the *Condominium Act*, under subsection 298 (11) and subsection 306 (2) of the *Municipal Act*, under subsection 82 (3) of the *Registry Act* and under section 145 of the *Land Titles Act* and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Delegation of Minister's powers: to municipality R.S.O. 1980, cc. 84, 302, 445, 230

(2) The Minister, on the request of the planning board of any planning area in a territorial district, may, by order, delegate to the planning board any of the Minister's authority under this Act, other than the authority to approve official plans and

to planning board

amendments thereto, and where the Minister has delegated any such authority the planning board has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the planning board shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Conditions

(3) A delegation made by the Minister under subsection (1) or (2) may be subject to such conditions as the Minister may by order provide.

Withdrawal of
delegation of
powers

(4) The Minister may by order, accompanied by a written explanation therefor, withdraw any delegation made under subsection (1) or (2) and, without limiting the generality of the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation, and immediately following any such withdrawal the council or the planning board, as the case may be, shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation or the planning board that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council or the planning board prior to such withdrawal.

Further
delegation
of powers

5.—(1) Where the Minister has delegated any authority to a council under section 4, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans and amendments thereto, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer, as the case may be, has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Idem

(2) In addition to the authority of a council to, in turn, delegate any authority under subsection (1), where the Minister has delegated to a council his authority for the giving of consents under section 52, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate the authority for the giving of consents to a committee of adjustment constituted under section 43 and the provisions of subsections 52 (2) to (9) and 52 (15) to (22) apply with necessary modifications in the exercise of that authority.

Conditions

(3) A delegation made by a council under subsection (1) or (2) may be subject to such conditions as the council may by by-law

provide and as are not in conflict with any conditions provided by order of the Minister under section 4.

(4) A council may by by-law withdraw any delegation made under subsection (1) or (2), whereupon the provisions of subsection 4 (4) apply with necessary modifications. Withdrawal of delegation of powers

6.—(1) In this section, “ministry” means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government and Ontario Hydro. Interpretation

(2) A ministry, before carrying out or authorizing any undertaking that the ministry considers will directly affect any municipality, shall consult with, and have regard for, the established planning policies of the municipality. Consultation

7. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants of money to assist in the performing of any duty or function of a planning nature. Grants

PART II

LOCAL PLANNING ADMINISTRATION

8.—(1) The council of a municipality may appoint a planning advisory committee composed of such persons as the council may determine. Planning advisory committee

(2) The councils of two or more municipalities may enter into agreement to provide for the joint undertaking of such matters of a planning nature as may be agreed upon and may appoint a joint planning advisory committee composed of such persons as they may determine. Joint planning by agreement

(3) Persons appointed to a committee under this section may be paid such remuneration and expenses as the council or councils may determine, and where a joint committee is appointed, the councils may by agreement provide for apportioning to their respective municipalities the costs of the payments. Remuneration

9.—(1) The Minister may define and name a planning area consisting of the whole of two or more municipalities that are situate in a territorial district or consisting of the whole of one or more municipalities and territory without municipal organization. Planning area defined by Minister

(2) Where a planning area is defined under subsection (1), the Minister shall establish the planning board for the planning area and specify the name of the board and the number of members to be appointed to it by the council of each municipality within the Planning board for planning area

Appointments to board planning area and the number of members, if any, to be appointed by the Minister.

(3) The council of each municipality shall appoint to the planning board the number of members specified by the Minister under subsection (2) and, after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized.

Term of office

(4) The members,

(a) appointed by the council of each municipality shall hold office for the term of the council that appointed them; and

(b) appointed by the Minister shall hold office for the term specified by the Minister in their appointment,

and until their successors are appointed.

Planning area in unorganized territory

10. The Minister may define and name a planning area consisting of territory without municipal organization and may establish and name a planning board for the planning area and appoint the members thereof.

Body corporate, quorum

11.—(1) A planning board is a body corporate and a majority of its members constitutes a quorum.

Chairman

(2) A planning board shall annually elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

Secretary-treasurer, employees, consultants

(3) A planning board shall appoint a secretary-treasurer, who may be a member of the board, and may engage such employees and consultants as is considered appropriate.

Execution of documents

(4) The execution of documents by a planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the board.

Estimates: one municipality

12.—(1) A planning board established by the Minister for a planning area consisting of one municipality and territory without municipal organization shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time.

two or more municipalities

(2) In the case of a planning board established for a planning area consisting of two or more municipalities or consisting of two

or more municipalities and territory without municipal organization, the planning board shall annually submit its estimates to the council of each of such municipalities together with a statement as to the proportion thereof to be chargeable to each municipality.

(3) If the estimates submitted under subsection (2) are approved, or are amended and approved, by the councils of municipalities representing more than one-half of the population of the planning area for which the board was established, the estimates are binding on all the municipalities.

(4) After the estimates have been approved as provided in subsection (3), the planning board shall so notify each municipality involved and shall notify each such municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection (2).

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Board.

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final.

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection (4) or by the Municipal Board under subsection (6), as the case may be.

13. Any municipality within a planning area may make grants of money to the planning board of the planning area.

14.—(1) A planning board shall provide advice and assistance in respect of such planning matters affecting the planning area as are referred to the board,

(a) by the councils to which the board submits its estimates under section 12, or by any of such councils; or

(b) by the Minister, in the case of a planning board appointed for a planning area consisting solely or partially of territory without municipal organization.

(2) A planning board shall prepare a plan suitable for adoption as the official plan of the planning area, or at the request of any of the councils mentioned in subsection (1), prepare a plan

suitable for adoption as the official plan of the municipality of which it is the council.

Upper-tier municipalities; planning functions

15. The council of a county or of a regional, metropolitan or district municipality, on such terms and conditions as may be agreed upon with the council of a local municipality that for municipal purposes forms part of the county or that forms part of the regional, metropolitan or district municipality, as the case may be, may,

- (a) assume any authority, responsibility, duty or function of a planning nature that the local municipality has under this or any other Act; or
- (b) provide advice and assistance to the local municipality in respect of planning matters generally.

PART III

OFFICIAL PLANS

Contents of official plan



16. In addition to the objectives and policies referred to in clause 1 (*h*), an official plan may contain a description of,

- (a) the measures and procedures proposed to attain the objectives of the plan; and
- (b) the measures and procedures for informing and securing the views of the public in respect of a proposed amendment to, or of a proposed revision of, the plan, or in respect of a proposed zoning by-law.

Preparation of official plan by municipality

17.—(1) The council of a municipality may provide for the preparation of a plan suitable for adoption as the official plan of the municipality.

Information and public meeting

(2) The council shall ensure that in the course of the preparation of the plan adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed.

Time for meeting, etc.

(3) The meeting mentioned in subsection (2) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the proposed plan.

(4) Where an official plan contains provisions describing the measures for informing and securing the views of the public in respect of amendments that may be proposed for the plan, the provisions of subsections (2) and (3) do not apply to such amendments if the measures are complied with. Alternative procedure

(5) The council shall provide to such boards, commissions, authorities or other agencies as the council considers may have an interest in the proposed plan adequate information, and before adopting the plan the council shall afford them an opportunity to submit comments in respect of the plan up to such time as is specified by the council. Comments by agencies, etc.

(6) When the requirements of subsections (2), (3), (4) and (5) have been met and the council is satisfied that the plan as finally prepared is suitable for adoption, it may by by-law adopt the plan and submit it to the Minister for approval. Adoption of plan

(7) When the plan is adopted, the council shall cause to be compiled and forwarded to the Minister a record which shall include, Record

- (a) a certified copy of the by-law adopting the plan;
- (b) a statement by an employee of the municipality certifying that the requirements for the giving of notice and the holding of at least one public meeting as mentioned in subsection (2) or as described in the provisions of the official plan mentioned in subsection (4), as the case may be, and, for the giving of notice as mentioned in subsection (8), have been complied with;
- (c) the original or true copy of all written submissions or comments and accompanying material received prior to the adoption of the plan; and
- (d) such other information or material as the Minister may require.

(8) Where the council adopts the plan, the clerk of the municipality shall, not later than fifteen days after the day the plan was adopted, give written notice of the adoption of the plan to the Minister, to each person who filed with the clerk a written request to be notified if the plan is adopted and to each body that submitted comments under subsection (5) and that in writing requested to be notified if the plan is adopted. Notice

(9) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister Approval, refusal to approve or modification of plan by Minister

considers may have an interest in the approval of the plan and, subject to subsection (11), may then approve, or, after consultation with the council, refuse to approve the plan or, if modifications appear desirable to the Minister, he may, after consultation with the council, make the modifications to the plan and approve the plan as modified.

Approval of
plan in
part

(10) The Minister, instead of approving the whole of the plan, may approve part only of the plan and may, from time to time, approve additional parts of the plan, provided that nothing herein derogates from the right of any person or other body to request the Minister to refer any part of the plan to the Municipal Board under subsection (11).

Referral of
plan or part
thereof to
O.M.B.

(11) The Minister may refer the plan or any part of the plan to the Municipal Board and where the council or any person or other body requests the Minister to refer the plan or any part of the plan to the Municipal Board, the Minister shall refer the plan or such part to the Board, together with the statement mentioned in subsection (12), unless in his opinion, such request is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay.

Reasons

(12) Where a person submits a request to the Minister under subsection (11), he shall include therewith a statement in writing setting out the reasons for the request.

Explanation
for refusal
to refer

(13) Where the Minister refuses to refer the plan or any part of the plan to the Municipal Board as requested under subsection (11), he shall provide a written explanation for the refusal.

Parties

(14) The parties to a referral are the person or other body, if any, that requested the referral, the municipality and any person or other body added as a party by the Municipal Board.

Adding of
parties

(15) The Municipal Board may add as a party to the referral any person, including the Minister or other body who applies to the Board to be added as a party.

Representations
by person not
a party

(16) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.

Hearing and
notice
thereof

(17) On a referral to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons or bodies as the Board considers appropriate.

Decision

(18) The Municipal Board may make any decision that the Minister could have made.

(19) Where the plan or any part of the plan is referred to the Municipal Board under subsection (11), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the part thereof, may so advise the Board in writing not later than thirty days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the plan or the part or parts of the part of the plan, as the case may be, by which the provincial interest is, or is likely to be, adversely affected.

Where provincial interest adversely affected

(20) Where the Municipal Board has received notice from the Minister under subsection (19) the decision of the Board is not final and binding in respect of the part or parts identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of the part or parts.

Decision where provincial interest

(21) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board in respect of the part or parts of the plan identified in the notice and in doing so may direct the Minister to modify the part or parts of the plan.

Power of Lieutenant Governor in Council

18.—(1) Where a plan is prepared by a planning board, the plan shall not be recommended to any council for adoption as an official plan unless it is approved by a vote of the majority of all the members of the planning board.

Recommendation of plan

(2) When the plan is approved by the planning board, the board shall submit a copy thereof, certified by the secretary-treasurer of the board to be a true copy,

Submission of plan to council

(a) in the case of a plan prepared for a planning area, to the council of each municipality that is within the planning area; and

(b) in the case of a plan prepared at the request of a single municipality, to the council of that municipality,

together with a recommendation that it be adopted by the council.

(3) Each council to which the plan is submitted may, subject to subsections 17 (2) to (6), by by-law adopt the plan and the clerk of each municipality, the council of which adopted the plan, shall provide the secretary-treasurer of the planning board with a certified copy of the adopting by-law and shall comply with subsections 17 (7) and (8).

Adoption of plan

(4) When the secretary-treasurer of the planning board has received a certified copy of an adopting by-law from a majority

Submission of plan to Minister

of the councils to which the plan was submitted he shall submit the plan to the Minister for approval together with each certified copy of the adopting by-law, and thereafter subsections 17 (9) to (21) apply.

Application of
s. 17 (2-21)

(5) Where a planning area consists of the whole of one or more municipalities and territory without municipal organization the provisions of subsections 17 (2) to (21) apply, with necessary modifications, in respect of the part of the planning area that consists of territory without municipal organization as though the planning board were the council of a municipality and the secretary-treasurer of the planning board were the clerk of the municipality.

Adoption of
plan in
unorganized
territory

19. Before adopting a plan for a planning area consisting solely of territory without municipal organization, the planning board,

- (a) shall ensure that in the course of the preparation of the plan adequate information is made available to the public through the holding of one or more public meetings or, in the case of an amendment to the official plan, through such other measures as are provided for in the official plan, and shall afford every person who so requests an opportunity to make representation in respect of the plan; and
- (b) shall provide to such boards, commissions, authorities or other agencies as the planning board considers may have an interest in the proposed plan adequate information, and shall afford them an opportunity to submit comments in respect of the plan up to such time as is specified by the planning board,

and thereafter subsections 17 (6) to (21) apply, with necessary modifications, as though the planning board were the council of a municipality and the secretary-treasurer were the clerk of the municipality.

Lodging
of plan

20.—(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister.

Who to
lodge plan

- (2) The lodging required by subsection (1) shall be carried out,
 - (a) in the case of an official plan that applies to only one municipality or part thereof or to only one municipality and territory without municipal organization, by the clerk of the municipality; and

(b) in the case of an official plan that applies to more than one municipality or parts thereof, by the clerk of the municipality that has the largest population.

(3) All copies lodged under subsection (1) shall be available for public inspection during office hours. Public inspection

21.—(1) Except as hereinafter provided, the provisions of this Act with respect to an official plan apply, with necessary modifications, to amendments thereto or the repeal thereof, provided that the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and the provisions of section 17 apply to any such amendment or repeal. Amendment or repeal of plan

(2) Where the Minister is satisfied that there is not a matter of provincial interest adversely affected by an amendment to an official plan submitted to him for approval and no request for referral has been received under subsection 17 (11) he may, in writing, waive the requirement for approval thereof, whereupon the amendment shall be deemed to be approved. Waiver of requirement for approval

22.—(1) Where any person requests a council to initiate an amendment to an official plan, other than an official plan that applies in whole or in part to territory without municipal organization, and the council refuses to adopt the amendment or fails to adopt it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board. Referral of proposed amendment to plan to O.M.B.

(2) Where any person requests a planning board to initiate an amendment to an official plan that applies in whole or in part to territory without municipal organization and the planning board refuses to adopt the amendment or to recommend the amendment for adoption, as the case may be, or fails to adopt or recommend it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board. Idem

(3) The Minister may confer on the proposed amendment in like manner as he is authorized to confer under subsection 17 (9) and he may refuse the request to refer the proposed amendment to the Municipal Board on providing a written explanation for the refusal or may refer the proposed amendment to the Board. Powers of Minister to confer, etc.

(4) The provisions of subsections 17 (14) to (17) apply with necessary modifications when a proposed amendment is referred to the Municipal Board under subsection (3) and the Board shall hold a hearing and thereafter reject the proposed amendment or make the amendment in such manner as the Board may deter- Application of s. 17 (14-17)

mine or direct that the council cause the amendment to be made in the manner provided in the order of the Board.

Where provincial interest adversely affected

(5) Where a proposed amendment is referred to the Municipal Board under subsection (3), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the proposed amendment, may so advise the Municipal Board in writing not later than thirty days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the proposed amendment by which the provincial interest is, or is likely to be, adversely affected.

Procedure by O.M.B.

(6) Where the Municipal Board receives notice from the Minister under subsection (5) the provisions of subsections 17 (20) and (21) apply with necessary modifications.

Request by Minister to amend plan

23.—(1) Where the Minister is of the opinion that a matter of provincial interest as set out in a policy statement issued under section 3 is, or is likely to be, adversely affected by an official plan, the Minister may request the council of a municipality to adopt such amendment as the Minister specifies to an official plan and, where the council refuses the request or fails to adopt the amendment within such time as is specified by the Minister in his request, the Minister may make the amendment.

Hearing by O.M.B.

(2) Where the Minister proposes to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality shall, request the Municipal Board to hold a hearing on the proposed amendment and the Board shall thereupon hold a hearing as to whether the amendment should be made.

Refusal to refer to O.M.B.

(3) Despite subsection (2), where the Minister is of the opinion that a request of any person or municipality made under subsection (2) is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay, he may refuse the request.

Notice

(4) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (2), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Decision of O.M.B.

(5) The Municipal Board, after the conclusion of the hearing, shall make a decision as to whether the proposed amendment, or an alternative form of amendment, should be made but the

decision is not final and binding unless the Lieutenant Governor in Council has confirmed it.

(6) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board made under subsection (5) and in doing so may direct the Minister to amend the plan in such manner as the Lieutenant Governor in Council may determine.

Powers of L. G. in C.

24.—(1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith.

Public works and by-laws to conform with plan

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

Validity of by-laws conforming with amendments to plans

(3) Despite subsections (1) and (2), the council of a municipality may take into consideration the undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan.

Preliminary steps that may be taken where proposed public work would not conform with official plan

(4) Where a by-law is passed under section 34 by the council of a municipality in which an official plan is in effect and, within the time limited for appeal,

When zoning by-law deemed to conform with official plan

(a) no appeal is taken; or

(b) an appeal is taken and the appeal is dismissed or the by-law is amended as directed on the appeal,

the by-law shall be conclusively deemed to be in conformity with the official plan, except that where the by-law is passed in the circumstances mentioned in subsection (2) the by-law shall be conclusively deemed to be in conformity with the official plan on and from the day the by-law was passed, if the Minister approves the amendment to the official plan as mentioned in subsection (2).

25.—(1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provi-

Acquisition of lands in accordance with provisions of plan

sions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

Contribution towards cost

(2) Any municipality may contribute towards the cost of acquiring land under this section.

Determination of need for revision of plan

26.—(1) The council of every municipality that has adopted and had approved an official plan shall from time to time, and not less frequently than every five years, hold a special meeting of council, open to the public, for the purpose of determining the need for a revision of the official plan.

Notice

(2) Notice of every special meeting held under subsection (1) shall be published at least once a week in each of two separate weeks, such publication to be completed not later than thirty days before the date of the meeting, and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the need for a revision of the plan.

Direction by Minister

(3) Despite subsection (1), the Minister may, at any time, direct the council of a municipality to undertake a revision of any official plan or part thereof in effect in the municipality and when so directed the municipal council shall cause the revision to be undertaken without undue delay.

Amendments to conform with upper-tier plans

27.—(1) When the Minister has approved an official plan adopted by a county or by a regional, metropolitan or district municipality,

(a) every official plan; and

(b) every zoning by-law passed under section 34 of this Act or a predecessor thereof,

that is then in effect in the area affected by the county, regional, metropolitan or district plan shall be amended to conform therewith.

Amendment by upper-tier municipality

(2) Where an official plan is approved as mentioned in subsection (1) and any official plan or zoning by-law is not amended as required by that subsection within one year of the approval of the plan, the council of the county or of the regional, metropolitan or district municipality may thereupon amend the official plan or zoning by-law, as the case may be, in like manner and subject to the same requirements and procedures as if such council was the council that failed to make the amendment within the one year period as herein required.

Deemed to be by-law of lower-tier municipality

(3) Where an amending by-law is passed under subsection (2) by the council of a county or the council of a regional, metropolitan or district municipality, the amending by-law shall be

deemed for all purposes to be a by-law passed by the council of the municipality that passed the by-law that was amended.

(4) In the event of a conflict between the official plan of a county or of a regional, metropolitan or district municipality and the official plan of a local municipality, the plan of the county or of the regional, metropolitan or district municipality, as the case may be, prevails to the extent of such conflict, but in all other respects the official plan of the local municipality remains in full force and effect.

Where
conflict
between
plans

PART IV

COMMUNITY IMPROVEMENT

28.—(1) In this section,

Interpre-
tation

- (a) “community improvement” means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, reconstruction and rehabilitation, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;
- (b) “community improvement plan” means a plan approved by the Minister for the community improvement of a community improvement project area;
- (c) “community improvement project area” means an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other reason.

(2) Where there is an official plan in effect in a local municipality that contains provisions relating to community improvement in the municipality, the council may, by by-law, designate the whole or any part of an area covered by such an official plan as a community improvement project area.

Designation
of community
improvement
project area

(3) When a by-law has been passed under subsection (2), the municipality may,

Acquisition
and clearance
of land

- (a) acquire land within the community improvement project area with the approval of the Minister if the land is acquired before the community improvement plan mentioned in subsection (4) is approved and without the approval of the Minister if the land is acquired after the community improvement plan is approved;

(b) hold land acquired before or after the passing of the by-law within the community improvement project area; and

(c) clear, grade or otherwise prepare the land for community improvement.

Preparation of community improvement plan

(4) When a by-law has been passed under subsection (2), the council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area and the provisions of subsections 17 (2) to (21) apply, with necessary modifications, in respect of the community improvement plan and any amendments thereto, provided however, where an official plan contains provisions describing the measures mentioned in subsection 17 (4), the provisions of subsections 17 (2) and (3) do not apply in respect of the community improvement plan and any amendments thereto, if the measures are complied with.

Deemed community improvement plan

(5) The Minister may, in writing, deem the provisions relating to community improvement mentioned in subsection (2) to be a community improvement plan for the purposes of this section.

Powers of council re land

(6) For the purpose of carrying out the community improvement plan, the municipality may,

(a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improvement project area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

(b) sell, lease or otherwise dispose of any land acquired or held by it in the community improvement project area to any person or governmental authority for use in conformity with the community improvement plan.

Grants or loans

(7) For the purpose of carrying out the community improvement plan, the municipality may make grants or loans to the registered owners or assessed owners of lands and buildings within the community improvement project area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the community improvement plan.

Application of s. 32 (2, 3)

(8) The provisions of subsections 32 (2) and (3) apply with necessary modifications to any loan made under subsection (7) of this section.

Conditions of sale, etc.

(9) Until a by-law or amending by-law passed under section 34 after the adoption of the community improvement plan is in force in the community improvement project area, no land acquired, and no building constructed, by the municipality in the

community improvement project area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of enters into a written agreement with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the community improvement plan until such a by-law or amending by-law is in force, but the municipality may, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the community improvement plan, for a term of not more than three years at any one time.

(10) An agreement entered into under subsection (9) may be registered against the land to which it applies and the municipality shall be entitled to enforce the provisions thereof against any party to the agreement and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners or tenants of the land.

Registration of agreement

R.S.O. 1980, cc. 445, 230

(11) Despite subsection 143 (1) of the *Municipal Act*, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides.

Debentures
R.S.O. 1980, c. 302

(12) When the council is satisfied that the community improvement plan has been carried out, the council may, by by-law, dissolve the community improvement project area.

Dissolution of area

29.—(1) A municipality, with the approval of the Minister, may enter into agreement with any governmental authority or any agency thereof created by statute, for the carrying out of studies and the preparation and implementation of plans and programs for the development or improvement of the municipality.

Agreement re studies and development

(2) Despite subsection (1), a municipality may enter into agreement with one or more other municipalities under subsection (1) without the approval of the Minister.

Where approval of Minister not required

30. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the community improvement of a community improvement project area as defined in section 28, including the carrying out of studies for the purpose of selecting areas for community improvement.

Agreements for grants in aid of community improvement

31.—(1) In this section,

Interpretation

(a) "committee" means a property standards committee established under this section;

- (b) "occupant" means any person or persons over the age of eighteen years in possession of the property;
- (c) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;
- (d) "owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;
- (e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;
- (f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform with the standards established in a by-law passed under this section.

Adoption of
policy
statement

(2) Where there is no official plan in effect in a local municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions.

Standards
for
maintenance
and
occupancy

(3) If,

- (a) an official plan that includes provisions relating to property conditions is in effect in a local municipality;
or
- (b) the council of a local municipality has adopted a policy statement as mentioned in subsection (2),

the council of the municipality may pass a by-law,

- (c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards;

- (d) for requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;
- (e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

(4) Subject to subsection (5), when a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property. Inspection

(5) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant. Entry into dwelling place
R.S.O. 1980,
c. 400

(6) If, after inspection, the officer is satisfied that in some respect the property does not conform with the standards prescribed in the by-law, he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to, the owner of the property and all persons shown by the records of the land registry office and the sheriff's office to have any interest therein a notice containing particulars of the nonconformity and may, at the same time, provide all occupants with a copy of such notice. Notice of violation

(7) After affording any person served with a notice provided for by subsection (6) an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing, Contents of order

- (a) the municipal address or the legal description of such property;
- (b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the

municipality may carry out the repair or clearance at the expense of the owner; and

(c) the final date for giving notice of appeal from the order.

Order to be sent to last known address

(8) A notice or an order under subsection (6) or (7), when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

Substituted service

(9) If the officer is unable to effect service under subsection (6) or (7), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

Registration of notice

(10) An order under subsection (7) may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under subsection (7) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order.

Property standards committee

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such persons, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

Chairman, acting chairman, secretary

(12) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member as acting chairman and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

Remuneration

(13) The members of the committee shall be paid such compensation as the council may provide.

Filing of documents, etc.

R.S.O. 1980, c. 302

(14) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

Quorum and procedure

(15) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before

hearing an appeal under subsection (17) shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

(16) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed. Appeal to committee

(17) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained. Decision on appeal

(18) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (17) may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and, Appeal to judge

- (a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;
- (b) the appointment shall be served in the manner prescribed by the judge; and
- (c) the judge on such appeal has the same powers and functions as the committee.

(19) The order, as deemed to have been confirmed under subsection (16), or as confirmed or modified by the committee under subsection (17) or, in the event of an appeal to the judge under subsection (18), as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order. Effect of decisions

(20) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies, Power of corporation to repair or demolish

(a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

Certificate of compliance

(21) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection (3), and the council of a municipality may prescribe a fee payable for such a certificate where it is issued at the request of the owner.

Enforcement

(22) An owner who fails to comply with an order that is final and binding under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each day that the contravention has continued.

Emergency order

(23) Despite any other provisions of this section, if upon inspection of a property the officer is satisfied there is nonconformity with the standards prescribed in the by-law to such extent as to pose an immediate danger to the health or safety of any person the officer may make an order containing particulars of the nonconformity and requiring remedial repairs or other work to be carried out forthwith to terminate the danger.

Emergency powers

(24) After making an order under subsection (23), the officer may, either before or after the order is served, take or cause to be taken any measures he considers necessary to terminate the danger, and for this purpose the municipality has the right, through its servants and agents, to enter in and upon the property from time to time.

No compensation where reasonable exercise of powers

(25) The officer, the municipality or anyone acting on behalf of the municipality is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (24).

Service of order and statement

(26) Where the order was not served before measures were taken by the officer to terminate the danger, as mentioned in subsection (24), the officer shall forthwith after the measures have been taken, serve or send copies of the order, in accordance with subsections (7), (8) and (9), on or to the owner of the property and all persons mentioned in subsection (6) and each copy of

the order shall have attached thereto a statement by the officer describing the measures taken by the municipality and providing details of the amount expended in taking the measures.

(27) Where the order was served before the measures were taken the officer shall forthwith after the measures have been taken serve or send a copy of the statement mentioned in subsection (26), in accordance with subsections (7), (8) and (9), on or to the owner of the property and all persons mentioned in subsection (6). Separate service of statement

(28) Forthwith after the requirements of subsection (26) or (27) have been complied with the officer shall apply to a judge of the county or district court of the judicial district in which the property is situate for an order confirming the order made under subsection (23), and Application to county judge

- (a) the judge shall, in writing, appoint a day, time and place for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;
- (b) the appointment shall be served in the manner prescribed by the judge; and
- (c) the judge in disposing of the application may confirm the order or may modify or quash it and shall make a determination as to whether the amount expended by the municipality in taking the measures to terminate the danger may be recovered by the municipality in whole, in part or not at all.

(29) The disposition of the application under clause (28) (c) is final and binding. Disposition by judge final

(30) Where a municipality demolishes or repairs property as mentioned in subsection (20) or takes measures to terminate a danger as mentioned in subsection (24) the municipality may recover the expense incurred in respect thereof by any or all of the methods provided for in section 325 of the *Municipal Act*, except that such amount, if any, as is to be borne by the municipality as a result of a determination under clause (28) (c) may not be recovered. Recovery of expense

R.S.O. 1980, c. 302

32.—(1) When a by-law under section 31 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 31 (6) to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe. Grants or loans for repairs

Loans collected as taxes, lien on land

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

Interpretation

33.—(1) In this section,

- (a) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;
- (b) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

Establishment of demolition control area by by-law

(2) When a by-law under section 31 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section.

Council may issue or refuse to issue permit

(3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

Appeal to O.M.B.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant

may appeal to the Municipal Board and the Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

(5) The person appealing to the Municipal Board under subsection (4) shall, in such manner and to such persons as the Board may direct, give notice of the appeal to the Board.

Notice of appeal

(6) Subject to subsection (7), the council shall, on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished.

Application for demolition permit where building permit issued

(7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

Conditions of demolition permit

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection (7), a certificate signed by the clerk setting out the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

Registration of certificate

(9) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

Appeal to O.M.B.

Application to council for relief from conditions of demolition permit

(10) Where any person who has obtained a demolition permit under subsection (6) that is subject to conditions under subsection (7) considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Powers of council on application

(11) Where an application is made under subsection (10), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

Appeal to O.M.B.

(12) Any person who has made application to the council under subsection (10) may appeal from the decision of the council to the Municipal Board within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection (11) and the decision of the Board shall be final.

Offence

(13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$20,000 for each dwelling unit contained in the residential property, the whole or any portion of which residential property has been demolished, or to imprisonment for a term of not more than six months, or to both.

Standards for health and safety remain in force

(14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition control.

Certain proceedings stayed

(15) Subject to subsection (14), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any

by-law under section 31 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon.

(16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in section 5 of the *Building Code Act*. Application of R.S.O. 1980, c. 51, s. 5

PART V

LAND USE CONTROLS AND RELATED ADMINISTRATION

34.—(1) Zoning by-laws may be passed by the councils of local municipalities: Zoning by-laws

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway. Restricting use of land
2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway. Restricting erecting, locating or using of buildings
3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy or unstable. Marshy lands, etc.
4. For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy. Construction of buildings or structures
5. For regulating the minimum elevation of doors, windows or other openings in buildings or structures or in any class or classes of buildings or structures to be Minimum elevation of doors, etc.

erected or located within the municipality or within any defined area or areas of the municipality.

Loading or parking facilities

6. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway.

Pits and quarries

- (2) The making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purposes of paragraph 1 of subsection (1).

Minimum area and density provisions

- (3) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law.

Interpretation
R.S.O. 1980,
c. 302

- (4) A trailer as defined in clause (a) of paragraph 95 of section 210 of the *Municipal Act* and a mobile home as defined in clause 45 (1) (a) of this Act shall be deemed to be a building or structure for the purposes of this section.

Prohibition of use of land, etc., availability of municipal services

- (5) A by-law heretofore or hereafter passed under paragraph 1 or 2 of subsection (1) or a predecessor of such paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be.

Certificates of occupancy

- (6) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law.

Use of maps

- (7) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

Acquisition and disposition of non-conforming lands

- (8) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land,

building or structure or may exchange any of such land for other land within the municipality.

(9) No by-law passed under this section applies,

Excepted
lands and
buildings

(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or

(b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure for which a permit has been issued under section 5 of the *Building Code Act*, prior to the day of the passing of the by-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under section 6 of the *Building Code Act*.

R.S.O. 1980,
c. 51

(10) Despite any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed.

By-law
may be
amended

(11) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and dismiss the same or amend the by-law in such manner as the Board may determine or direct that the by-law be amended in accordance with its order.

Appeal to
O.M.B.

(12) Before passing a by-law under this section, the council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed, for the purpose of informing the public in respect of the proposed by-law.

Information
and public
meeting

(13) The meeting mentioned in subsection (12) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded

Time for
meeting,
etc.

an opportunity to make representation in respect of the proposed by-law.

Alternative procedure

(14) Where there is an official plan in effect in the municipality that contains provisions describing the measures for informing and securing the views of the public in respect of proposed zoning by-laws the provisions of subsections (12) and (13) do not apply to such proposed by-laws if the measures are complied with.

Comments by agencies, etc.

(15) The council shall provide to such boards, commissions, authorities or other agencies as the council considers may have an interest in the proposed by-law, adequate information, and before passing the by-law the council shall afford them an opportunity to submit comments in respect of it up to such time as is specified by the council.

Further notice

(16) Where a change is made in a proposed by-law after the holding of the meeting mentioned in subsection (12), the council shall determine whether any further notice is to be given in respect of the proposed by-law and the determination of the council as to the giving of further notice is final and not subject to review in any court irrespective of the extent of the change made in the proposed by-law.

Notice of passing of by-law

(17) Where the council passes a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11), the clerk of the municipality shall, not later than fifteen days after the day the by-law was passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and agencies prescribed.

Appeal to O.M.B.

(18) Any person including the Minister or agency may, within thirty-five days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

When by-law deemed to have come into force

(19) When no notice of appeal is filed under subsection (18), the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 24 (2) the by-law shall not be deemed to have come into force on the day it was passed until the Minister has approved the amendment to the official plan as mentioned in subsection 24 (2).

Affidavit re no appeal, etc.

(20) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (17) or that no

notice of appeal was filed under subsection (18) within the time allowed for appeal shall be conclusive evidence of the facts stated therein.

(21) The clerk of the municipality, upon receipt of a notice of appeal under subsection (18), shall compile a record which shall include, Forwarding of record, etc., to O.M.B.

- (a) a copy of the by-law certified by him;
- (b) an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsection (17) have been complied with; and
- (c) the original or a true copy of all written submissions and material in support of the submissions received in respect of the by-law prior to the passing thereof,

and the clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board and shall provide such other information or material as the Board may require in respect of the appeal.

(22) The parties to an appeal are the appellant, the municipality and any person or agency added as a party by the Municipal Board. Parties

(23) The Municipal Board may add as a party to the appeal any person including the Minister, or agency who applies to the Board to be added as a party. Adding of parties

(24) Despite the fact that a person is not a party to the appeal, the Municipal Board may permit the person to make representations at the hearing. Representations by person not party

(25) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the appeal, and to such other persons as the Board considers appropriate. Hearing

(26) Despite subsection (25), the Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before so dismissing the appeal shall notify the appellant and afford him an opportunity to make representations as to the merits of the appeal. Dismissal of appeal without hearing

(27) The Municipal Board may, Powers of O.M.B.

- (a) dismiss the appeal; or

- (b) allow the appeal in whole or in part and repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order.

Where provincial interest adversely affected

(28) Where an appeal has been filed under subsection (18), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the by-law, may so advise the Municipal Board in writing not later than thirty days before the day fixed by the Board for the hearing of the appeal and the Minister shall identify the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected.

Procedure

(29) Where the Municipal Board has received notice from the Minister under subsection (28) and has made a decision on the by-law the Board shall not make an order under subsection (27) in respect of the part or parts of the by-law identified in the notice.

Power of L.G. in C.

(30) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such manner as the Lieutenant Governor in Council may determine.

When by-law deemed to have come into force

(31) Where one or more appeals have been filed under subsection (18), the by-law does not come into force until all of such appeals have been finally disposed of whereupon the by-law, except for such parts thereof as are repealed or amended in accordance with the direction of the Municipal Board or as are repealed or amended by the Municipal Board or by the Lieutenant Governor in Council as mentioned in subsections (27) and (30), shall be deemed to have come into force on the day it was passed.

Holding provision by-law

35.—(1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol "H" (or "h") in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law.

Condition

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the use of the holding symbol mentioned in subsection (1).

Appeal to O.M.B.

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council

refuses or neglects to make a decision thereon within thirty days after receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order.

(4) Subsections 34 (11) to (26) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and agencies and containing the information prescribed, give notice of its intention to pass the amending by-law. Application of s. 34 (11-26)

36.—(1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law. Increased density, etc., provision by-law

(2) A by-law may not be passed containing the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development. Condition

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters. Agreements

(4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. Registration of agreement
R.S.O. 1980, cc. 445, 230

37.—(1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law. Interim control by-law

(2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will Extension of period by-law in effect

be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law.

Notice of
passing of
by-law

(3) No notice or hearing is required prior to the passing of a by-law under subsection (1) or (2) but the clerk of the municipality shall, in the manner and to the persons and agencies and containing the information prescribed, give notice of a by-law passed under subsection (1) or (2) within thirty days of the passing thereof.

Appeal to
O.M.B.

(4) Any person or agency to whom notice of a by-law was given under subsection (3) may, within sixty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Application of
s. 34 (21-30)

(5) Where a notice of appeal is filed under subsection (4), the provisions of subsections 34 (21) to (30) apply with^{*} necessary modifications.

When prior
zoning by-law
again has
effect

(6) Where the period of time during which an interim control by-law is in effect has expired and the council has not passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, or where an interim control by-law is repealed or the extent of the area covered thereby is reduced, the provisions of any by-law passed under section 34 that applied immediately prior to the coming into force of the interim control by-law again come into force and have effect in respect of all lands, buildings or structures formerly subject to the interim control by-law.

Prohibition

(7) Where an interim control by-law ceases to be in effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied.

Application of
s. 34 (9)

(8) The provisions of subsection 34 (9) apply with necessary modifications to a by-law passed under subsection (1) or (2).

Temporary
use
provisions

38.—(1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law.

Area and
time in
effect

(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and prescribe the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law.

(3) Despite subsection (2), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized. Extension

(4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3), clause 34 (9) (a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized. Non-application of s. 34 (9) (a)

39.—(1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. Agreement exempting owner from requirement to provide parking

(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. Payment of money

(3) All moneys received by a municipality under an agreement entered into under this section shall be paid into a special account, and the moneys in such special account shall be applied for the same purposes as a reserve fund established under paragraph 55 of section 208 of the *Municipal Act* may be applied, and the moneys in such special account may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor of the municipality in his annual report shall report on the activities and position of the account. Special account
R.S.O. 1980,
cc. 302, 512

(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies, and when so registered, any moneys payable to the municipality under the agreement that have become due for payment shall be deemed to be taxes due upon the land under section 369 of the *Municipal Act* and may be collected in the same manner as municipal taxes. Registration of agreement

(5) When all moneys payable to the municipality under an agreement registered under subsection (4) have been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registerable in the proper land registry office, certifying that the moneys have been paid or that the agreement has been terminated. Certificate

Interpre-
tation

40.—(1) In this section, “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in clause (a) of paragraph 95 of section 210 of the *Municipal Act* or of sites for the location of three or more mobile homes as defined in clause 45 (1) (a) of this Act.

R.S.O. 1980,
c. 302

Establishment
of site
plan control
area

(2) Where in an official plan an area is shown or described as a proposed site plan control area, the council of the local municipality in which the proposed area is situate may, by by-law designate the whole or any part of such area as a site plan control area.

Designation
of site
plan control
area

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34.

Approval
of plans or
drawings

(4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (12), the Municipal Board has approved one or both, as the council may determine, of the following:

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (7) (a).
2. Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing less than twenty-five dwelling units, which drawings are sufficient to display,
 - (a) the massing and conceptual design of the proposed building;
 - (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and
 - (c) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause (c), the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

(5) Despite the exception provided in paragraph 2 of subsection (4), the council of the municipality may require the drawings mentioned therein for a building to be used for residential purposes containing less than twenty-five dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area wherein such drawings may be required.

Drawings for residential buildings

(6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

Proviso

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

Conditions to approval of plans

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Subject to the provisions of subsections (8) and (9), widenings of highways that abut on the land.
2. Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs.
3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
4. Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access.
5. Facilities for the lighting, including floodlighting, of the land or of any building structures thereon.
6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.

R.S.O. 1980, c. 421

7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereon on the land.
9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

- (b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;
- (c) enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4).

Widenings,
etc., of
county,
regional, etc.,
highways

(8) Where an area designated under subsection (2) is within a county or a regional, metropolitan or district municipality, plans and drawings in respect of any development proposed to be undertaken in the area shall not be approved until the county or regional, metropolitan or district municipality has been advised of the proposed development and afforded a reasonable opportunity to require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the county or regional, metropolitan or district municipality any or all of the following:
 1. Subject to the provisions of subsection (9), widenings of highways that are under the jurisdiction of the county or regional, metropolitan or district municipality and that abut on the land.
 2. Subject to the *Public Transportation and Highway Improvement Act*, where the land abuts a

highway under the jurisdiction of the county or regional, metropolitan or district municipality, facilities to provide access to and from the land such as access ramps and curbs and traffic direction signs.

3. Where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, offstreet vehicular loading and parking facilities, either covered or uncovered, access driveways including driveways for emergency vehicles, and the surfacing of such areas and driveways;

- (b) enter into one or more agreements with the county or regional, metropolitan or district municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) and the maintenance thereof at the sole risk and expense of the owner, including the removal of snow from access ramps and driveways and parking and loading areas.

(9) An owner may not be required to provide a highway widening under paragraph 1 of clause (7) (a) or under paragraph 1 of clause (8) (a) unless the highway to be widened is shown on or described in an official plan as a highway to be widened and the extent of the proposed widening is likewise shown or described.

Widening must be described in official plan

(10) Any agreement entered into under clause (7) (c) or under clause (8) (b) may be registered against the land to which it applies and the municipality or the county or regional, metropolitan or district municipality, as the case may be, is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

Registration of agreements

R.S.O. 1980, cc. 445, 230

(11) Section 325 of the *Municipal Act* applies to any requirements made under clauses (7) (a) and (b) and to any requirements made under an agreement entered into under clause (7) (c).

Application of R.S.O. 1980, s. 302, s. 325

(12) Where the municipality fails to approve the plans or drawings referred to in subsection (4) within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection (7) or by the county or regional, metropolitan or district municipality under subsection (8) or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the

Appeal to O.M.B.

Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality or to the clerk of the county or regional, metropolitan or district municipality in the case of a requirement made by a county or regional, metropolitan or district municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Classes of
development,
delegation

(13) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law,

(a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5); and

(b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a).

Proviso

(14) Section 35a of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as it existed on the 21st day of June, 1979, shall be deemed to continue in force in respect of any by-law passed under that section on or before that day.

Certain
agreements
declared
valid and
binding
R.S.O. 1970,
c. 349

(15) Every agreement entered into by a municipality after the 16th day of December, 1973 and before the 22nd day of June, 1979, to the extent that the agreement deals with facilities and matters mentioned in subsection 35a (2) of *The Planning Act* as it existed on the 21st day of June, 1979, is hereby declared to be valid and binding.

Conveyance
of land
for park
purposes

41.—(1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land be conveyed to the municipality for park or other public recreational purposes.

Interpre-
tation

(2) For the purposes of subsection (3), "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.

Alternative
requirement

(3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land

proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law.

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement. Official plan requirement

(5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time. Use and sale of land

(6) The council of a municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of such conveyance and for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or, where more than one building permit is required for the development, as of the day before the day of the issuance of the first permit, and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the *Expropriations Act*, determine the value of the land. Cash payment in lieu of conveyance

(7) The provisions of subsection 50 (12) apply with necessary modifications to all moneys received under subsection (5) or (6). R.S.O. 1980, c. 148

(8) Where land has been conveyed to a municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the municipality pursuant to a condition imposed under this section or under section 50 or section 52 or under a predecessor of any of such sections, the conveyance or payment, as the case may be, shall be included in determining the amount of land or payment of money in lieu thereof that may subsequently be required under this section on the development, further development or redevelopment of the lands or part thereof in respect of which the original conveyance or payment was received. Application of s. 50 (12)

(9) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money in lieu thereof that may subsequently be required, as mentioned in subsection (8), either party may apply to the Municipal Board and the Board shall make a final determination in the matter. Where account taken of previous conveyances or payments

(9) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money in lieu thereof that may subsequently be required, as mentioned in subsection (8), either party may apply to the Municipal Board and the Board shall make a final determination in the matter. Application to O.M.B.

Application of
s. 34 (12-31)

42.—(1) Subsections 34 (12) to (31) do not apply to a by-law that amends a by-law only to express a word, term or measurement in the by-law in a unit of measurement set out in Schedule I of the *Weights and Measures Act* (Canada) in accordance with the definitions set out in Schedule II of that Act and that,

R.S.C. 1970,
c. W-8

(a) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or

(b) does not vary by more than 5 per cent any measurement so expressed.

Effect of
amendment
that conforms
with subs. (1)

(2) Any land, building or structure that otherwise conforms with a by-law passed under section 34 or a predecessor thereof or an order made by the Minister under section 46 or a predecessor thereof does not cease to conform with the by-law or order by reason only of an amendment to the by-law or order that conforms with subsection (1).

Establishment
of committee
of adjustment

43.—(1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable.

Copy of
by-law to
Minister

(2) Where a by-law is passed under subsection (1), a certified copy of the by-law shall be sent to the Minister by registered mail by the clerk of the municipality within thirty days of the passing thereof.

Term of
office

(3) The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council shall be appointed annually.

Idem

(4) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term.

Quorum

(5) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum.

Vacancy not
to impair
powers

(6) Subject to subsection (5), a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

(7) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member to act as acting chairman. Chairman

(8) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the moneys appropriated for the purpose. Secretary-treasurer, employees

(9) The members of the committee shall be paid such compensation as the council may provide. Remuneration

(10) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents. Filing of documents, etc.
R.S.O. 1980, c. 302

(11) In addition to complying with the requirements of this Act, the committee shall comply with such rules of procedure as are prescribed. Rules of procedure

44.—(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 37, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. Powers of committee; general

(2) In addition to its powers under subsection (1), the committee, upon any such application, special

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

- (i) the enlargement or extension of the building or structure, provided that the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

(b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

Power of committee to grant minor variances

(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered the provisions of subsection (1) apply with necessary modifications.

Time for hearing

(4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.

Notice of hearing

(5) The committee, before hearing an application, shall in the manner and to the persons and agencies and containing the information prescribed give notice of the application.

Hearing

(6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.

Oaths

(7) The chairman, or in his absence the acting chairman, may administer oaths.

Decision

(8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

Conditions in decision

(9) Any authority or permission granted by the committee under subsections (1), (2) and (3) may be for such time and

subject to such terms and conditions as the committee considers advisable and as are set out in the decision.

(10) The secretary-treasurer shall not later than ten days from the making of the decision send by mail one copy of the decision, certified by him, ^{Notice of decision}

- (a) to the Minister, if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;
- (b) to the applicant; and
- (c) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

(11) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection (10), he shall also send to the Minister such other information and material as may be prescribed. ^{Additional material}

(12) The applicant, the Minister or any other person who has an interest in the matter may within thirty days of the making of the decision 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 a notice of appeal setting out the objection to the decision and the reasons in support of the objection 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. ^{Appeal to O.M.B.}
 ^{R.S.O. 1980, c. 347}

(13) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection (12) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) 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 Board. ^{Idem}

(14) If within such thirty 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. ^{Where no appeal}

(15) Where all appeals to the Municipal Board are withdrawn by the persons who gave notice of appeal, the decision of the committee is final and binding and the secretary of the Board ^{Where appeals withdrawn}

shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

Hearing

(16) On an appeal to the Municipal Board, the Board shall, except as provided in subsections (15) and (17), 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 Board may determine.

Dismissal
of appeal
by O.M.B.

(17) The Municipal Board may, where it is of the opinion that the objection to the decision set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing, but before so dismissing the appeal, shall notify the appellant and afford him an opportunity to make representations as to the merits of the appeal.

Powers
of O.M.B.

(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.

Notice of
decision

(19) When the Municipal Board makes an order on an appeal, the secretary of the Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

Idem

(20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.

Interpre-
tation

45.—(1) In this section,

(a) “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;

(b) “parcel of land” means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 49 (3) (b) or clause 49 (5) (a).

One mobile
home per
parcel of land
R.S.O. 1980,
c. 413

(2) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause 46 (1) (a), or a permit issued under section 13 of the *Public Lands Act*, no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land as defined in clause (1) (b) of this section, and in no case except as otherwise so authorized shall any person erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land.

Saving

(3) This section does not apply to prevent the continued use in the same location of any mobile home that,

(a) was erected or located and in use prior to the 1st day of June, 1977; or

(b) was erected or located in accordance with a building permit issued prior to the 1st day of June, 1977.

46.—(1) The Minister may by order,

Power of Minister re zoning and subdivision control

(a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, but subsections (12) to (31) of that section do not apply to the exercise of such powers; and

(b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 49 (4).

(2) Where an order has been made under clause (1) (a), the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 44 (1) and (2) in respect of a by-law passed under section 34, but the provisions of subsections 44 (4) to (8) and (10) to (20) do not apply to the exercise by the Minister of such powers.

Power of Minister to allow minor variances

(3) In the event of a conflict between an order made under clause (1) (a) and a by-law that is in effect under section 34 or 37, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect.

Order prevails over by-law in event of conflict

(4) Where the Minister so provides in the order, an order made under clause (1) (a) in respect of land situate in a municipality the council of which has the powers conferred by section 34 shall be deemed for all purposes except the purposes of section 24 to be a by-law passed by the council of the municipality in which the land is situate and to be in force in the municipality.

Where order deemed by-law of municipality

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections (8), (9) and (10).

Notice

(6) The Minister shall cause a duplicate or certified copy of an order made under clause (1) (a),

Idem

(a) where the land affected is situate in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more local municipalities, in the office of the clerk of each of such municipalities and the provisions of subsection 78 (2) of the *Municipal Act* apply with necessary modifications; and

R.S.O. 1980, c. 302

(b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production.

Registration (7) The Minister shall cause a certified copy or duplicate of an order made under clause (1) (b) to be registered in the proper land registry office.

Revocation or amendment (8) The Minister may, on his own initiative or at the request of any person, by order, amend or revoke in whole or in part any order made under subsection (1).

Notice (9) Except as provided in subsection (10), the Minister before amending or revoking in whole or in part an order made under subsection (1) shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof.

Hearing by O.M.B. (10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection (1), the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part.

Refusal of request by Minister (11) Despite subsection (10), where the Minister is of the opinion that a request of any person made under subsection (10) is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay, he may refuse the request.

Notice of hearing (12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Decision of O.M.B. (13) The Municipal Board after the conclusion of the hearing shall make a decision to either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the Minister shall, except as provided in subsection (16), give effect to the decision of the Board.

Notification of decision (14) A copy of the decision of the Municipal Board shall be sent to each person who appeared at the hearing and made representation and to any person who in writing requests a copy of the decision.

Where provincial interest adversely affected (15) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the requested revocation or amendment, he

may so advise the Municipal Board in writing not later than thirty days before the day fixed by the Board for the hearing of the application.

(16) Where the Municipal Board has received notice from the Minister under subsection (15) and has made a decision on the requested revocation or amendment the Minister shall not give effect to the decision under subsection (13) unless the Lieutenant Governor in Council has confirmed the decision.

Decision where provincial interest

(17) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board where notice of a matter of provincial interest was given under subsection (15) and in doing so may direct the Minister to amend or revoke the order in whole or in part.

Disposition by L.G. in C.

(18) An order of the Minister made under clause (1) (b) has the same effect as a by-law passed under subsection 49 (4).

Effect of land use order

47. Despite the provisions of any other general or special Act, a licence, permit, approval or permission shall not be issued or granted nor any utility or service provided by a public utilities commission or other public or Crown agency in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 45 or of an order made under section 46.

Where licence, etc., not to issue

48.—(1) In this section, “officer” means an officer who has been assigned the responsibility of enforcing section 45, orders of the Minister made under clause 46 (1) (a) or zoning by-laws passed under section 34.

Interpretation

(2) Subject to subsection (3), where an officer believes on reasonable grounds that section 45, an order of the Minister made under clause 46 (1) (a) or a by-law passed under section 34 or 37 is being contravened, the officer or any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property on or in respect of which he believes the contravention is occurring.

Entry and inspection

(3) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

Where warrant under R.S.O. 1980, c. 400, s. 142, required

PART VI

SUBDIVISION OF LAND

49.—(1) In this section and in section 52 “consent” means,

Interpretation

- (a) where the land is situate within a regional municipality or is situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford, a consent given by the regional council, the Metropolitan Council, the District Council or the County Council, as the case may be;
- (b) where the land is situate within a town, village or township that forms part of a county for municipal purposes, a consent given by the council of the county;
- (c) where the land is situate within a local municipality that is within a county, but that does not form part of the county for municipal purposes other than land situate within the Township of Pelee, in the County of Essex, a consent given by the council of the local municipality;
- (d) where the land is situate within a city that is within a territorial district, other than a city within a regional or district municipality, a consent given by the council of the city; or
- (e) where the land is situate in a territorial district but is not within a regional or district municipality or is not within a city, or where land is situate in the Township of Pelee, in the County of Essex, a consent given by the Minister,

and a reference herein and in section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53.

Proviso

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only.

Subdivision control

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,

- (a) the land is described in accordance with and is within a registered plan of subdivision;
- (b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement

of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;

(c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;

(d) the land or any use of or right therein is being acquired for the purpose of a transmission line as defined in the *Ontario Energy Board Act* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

R.S.O. 1980,
c. 332

(e) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose; or

R.S.O. 1980,
c. 85

(f) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3).

Designation
of plans of
subdivision
not deemed
registered

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed, or transfer, or grant, assign or exercise a power of

Part-lot
control

appointment in respect of a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;

(b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;

R.S.O. 1980,
c. 332

(c) the land or any use of or right therein is being acquired for the purpose of a transmission line or utility line, both as defined in the *Ontario Energy Board Act*, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

R.S.O. 1980,
c. 85

(d) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose;

(e) the land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by a body that has vested in it the right to acquire land by expropriation; or

- (f) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

(6) Despite subsections (3) and (5), where land is the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a consent given under clause (3) (f) or (5) (f), the whole of the remaining part may be conveyed or otherwise dealt with before the other part or parts are conveyed or otherwise dealt with, provided that the remaining part is conveyed or otherwise dealt with before the consent mentioned above lapses under subsection 52 (22).

Conveyance of remaining part

(7) Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection (5) ceases to apply to such land, but the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection (24) have been complied with, subsection (5) thereupon applies to the lands affected by the repeal or amendment.

Designation of lands not subject to part-lot control

(8) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance.

Exception

(9) Nothing in subsections (3) and (5) prohibits the entering into of an agreement that has the effect of granting the use of or right in a part of a building or structure for any period of years.

Part of building or structure

(10) This section does not apply to an agreement entered into under section 2 of the *Drainage Act*.

Agreement under R.S.O. 1980, c. 126, s. 2

(11) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer.

Application to ARDA

(12) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 52, subsections (3) and (5) of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land

Exception to application of subss. (3, 5)

unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.

Reference
to
stipulation

(13) Where the council or the Minister stipulates in accordance with subsection (12), the certificate provided for under subsection 52 (21) shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation.

Effect of
contravention
of s. 49, etc.,
before plan
registered, etc.
R.S.O. 1980,
c. 84

(14) Where land is within a registered plan of subdivision or within a registered description under the *Condominium Act* or where land is conveyed with a consent given under section 52 or a predecessor thereof, any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, but this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the 15th day of December, 1978.

Simultaneous
conveyances,
etc., of
abutting
lands

(15) Where a person conveys land or grants, assigns or exercises a power of appointment in respect of land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment in respect of, land abutting the land that is being conveyed or otherwise dealt with but this subsection does not apply to simultaneous conveyances or other simultaneous dealings involving the same parties acting in their same respective capacities.

Partial
discharges,
etc., of
effect of

(16) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes

of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation.

(17) Subsection (16) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

- (a) is the same land in respect of which a consent to convey has previously been given;
- (b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4); or
- (c) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario, Ontario Hydro or by any municipality.

(18) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

- (a) the whole of one or more lots or blocks within one or more registered plans of subdivision; or
- (b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge.

(19) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the abutting land.

(20) No order made under the *Partition Act* for the partition of land shall have any effect in law unless,

- (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or
- (b) a consent is given to the order.

Saving

Foreclosure or exercise of power of sale, when approval of Minister required

Release of interest by joint tenant or tenant in common

Order made under R.S.O. 1980, c. 369

X

- Conveyance, etc., contrary to section not to create or convey interest in land
- (21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with.
- Copy of by-law to be lodged with Minister
- (22) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the Minister.
- When by-law effective
- (23) A by-law passed under subsection (4) is not effective until the requirements of subsection (24) have been complied with.
- Registration of by-law
- (24) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office.
- Notice
- (25) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.
- Hearing by council
- (26) The council shall hear in person or by his agent any person to whom a notice was sent under subsection (25), who within twenty days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law.
- Application for approval of subdivision plan
- 50.**—(1) An owner of land or his agent duly authorized in writing may apply to the Minister for approval of a plan of subdivision of his land or part thereof.
- What draft plan to indicate
- (2) An applicant under subsection (1) shall provide as many copies as may be required by the Minister of a draft plan of the proposed subdivision drawn to scale and showing,
- (a) the boundaries of the land to be subdivided, certified by an Ontario land surveyor;
 - (b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
 - (c) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which he has an interest, every subdivision adjacent

to the proposed subdivision and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;

- (d) the purpose for which the lots are to be used;
- (e) the existing uses of all adjoining lands;
- (f) the approximate dimensions and layout of the proposed lots;
- (g) natural and artificial features such as buildings or other structures or installations, railways, highways, water-courses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land;
- (k) the municipal services available or to be available to the land proposed to be subdivided; and
- (l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided.

(3) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the proposed subdivision.

Minister
may confer

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to the following,

What matters
to be regarded

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan generally conforms to the official plan and adjacent plans of subdivision, if any;

- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy thereof;
- (f) the dimensions and shape of the lots;
- (g) 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;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and
- (l) the physical layout of the plan having regard to energy conservation.

Dedication
of land for
park and
highway
purposes

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are reasonable, having regard to the nature of the development proposed for the subdivision and, in particular, but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

- (a) that land to an amount to be determined by the Minister but not exceeding in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall be dedicated for park or other public recreational purposes;
- (b) that such highways shall be dedicated as the Minister considers necessary;
- (c) when the subdivision abuts on an existing highway that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister considers necessary; and
- (d) that the owner of the land enter into one or more agreements with a municipality, or where the land is

not in a municipality, with the Minister, dealing with such matters as the Minister may consider necessary, including the provision of municipal services.

(6) Every municipality and the Minister may enter into agreements imposed as a condition to the approval of a plan of subdivision and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

Subdivision
agreements

R.S.O. 1980,
cc. 445, 230

(7) Where the Minister has imposed a condition under clause (5) (a) requiring land to be conveyed to the municipality and where the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes, the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality.

Alternative
requirement

(8) Where the Minister has imposed a condition under clause (5) (a) requiring land to be conveyed to the municipality, the municipality may, in lieu of accepting such conveyance, require the payment of money by the owner of the land,

Cash payment
in lieu of
conveyance

(a) to the value of the land otherwise required to be conveyed; or

(b) where the municipality would be entitled to require a conveyance under subsection (7), to the value of the land that would otherwise be required to be so conveyed.

(9) For the purpose of determining the amount of any payment required under subsection (8), the value of the land shall be determined as of the day before the day of the draft approval of the plan and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the *Expropriations Act*, determine the value of the land.

Valuation of
land

R.S.O. 1980,
c. 148

(10) Land conveyed to a municipality pursuant to a condition imposed under subsection (5) shall be used for park or other public recreational purposes but may be sold at any time.

Use and
sale of land

Fund for
acquisition of
park lands

(11) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park or other public recreational purposes and may pay into the fund provided for in subsection (12) the sum so included in the estimates, and any person may pay any sum into the same fund.

Special
account

(12) All moneys received by the municipality under subsections (8) and (11) and all moneys received on the sale of land under subsection (10), less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recreational purposes, including the acquisition of machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account.

R.S.O. 1980,
c. 512

Giving or
refusing of
approval by
Minister

(13) The Minister may, subject to subsections (14) and (15), give or refuse to give his approval to a draft plan of subdivision.

Reasons for
refusal

(14) Where the Minister proposes to refuse to give his approval to a draft plan of subdivision, the Minister shall send notice to the applicant together with written reasons as to why he proposes to refuse his approval and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the draft plan to the Municipal Board, the approval of the Minister shall be deemed to have been refused.

Referral of
plan to O.M.B.

(15) At any time before the Minister has given or has refused to give his approval to a draft plan of subdivision, the Minister may, and upon application therefor shall, refer the draft plan of subdivision to the Municipal Board unless, in his opinion, such request is not made in good faith, or is frivolous or vexatious or is made only for the purpose of delay and where the draft plan is referred to the Board the Board shall hear and determine the matter.

Reasons

(16) Where an application is made under subsection (15), the application shall be accompanied by written reasons in support thereof.

Reference of
conditions

(17) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or

any of the conditions, imposed or to be imposed, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it.

(18) The Minister may, in his discretion, withdraw his approval to a draft plan of subdivision or change the conditions of such approval at any time prior to his approval of a final plan for registration.

Withdrawal of approval

(19) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with the *Surveys Act* and the *Registry Act* or the *Surveys Act* and the *Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor.

When draft plan approved

R.S.O. 1980, cc. 493, 445, 230

(20) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

Approval of plan by Minister

(21) When a final plan for registration is approved under subsection (20) and is not registered within thirty days of the date of approval, the Minister may withdraw his approval.

Withdrawal of approval of plan for registration

(22) In addition to any requirement under the *Registry Act* or the *Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the land registrar a duplicate, or when required by the Minister two duplicates, of the plan of a type approved by the Minister, and the land registrar shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

Duplicates to be deposited and sent to Minister
R.S.O. 1980, cc. 445, 230

(23) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act.

Saving

51.—(1) No person shall subdivide and offer for sale, agree to sell or sell land by a description in accordance with an unregistered plan of subdivision, but this subsection does not prohibit any person from offering for sale or agreeing to sell land by a description in accordance with a plan of subdivision in respect of which draft approval has been given under section 50.

Sale of lands in accordance with unregistered plan prohibited

- Interpretation (2) In subsection (1), “unregistered plan of subdivision” does not include a reference plan of survey under section 149 of the *Land Titles Act* that complies with the regulations under that Act or a plan deposited under Part II of the *Registry Act* in accordance with the regulations under that Act.
- R.S.O. 1980, cc. 230, 445
- Consent **52.**—(1) An owner of land or his agent duly authorized in writing may apply for a consent as defined in subsection 49 (1) and the council or the Minister, as the case may be, may, subject to subsections (2) to (22) of this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.
- Rules to be complied with and matters to be regarded (2) A council in dealing with applications for consent shall comply with such rules of procedure as are prescribed and a council or the Minister, as the case may be, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 50 (4) and has the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsection 50 (5), and subsections 50 (6), (7), (8), (9), (10) and (12) apply with necessary modifications.
- Conveyance of land for park purposes (3) Where, on the giving of a consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the giving of the consent.
- Conferring with agencies, etc. (4) A council, in determining whether a consent is to be given, shall confer with such agencies or persons as are prescribed.
- Notice of decision (5) Where a decision is made by a council to give a consent, written notice of the decision, setting out the conditions, if any, imposed to the giving of the consent, shall be sent, not later than ten days from the making of the decision, to the applicant, to every agency or person conferred with under subsection (4) that in writing requested to be given notice of the decision, to any other person who in writing requested to be given notice of the decision and to the Minister, if the Minister has notified the council by registered mail that he wishes to receive a copy of all decisions made to give a consent.
- Idem (6) Where a decision is made by a council to refuse to give a consent, written notice of the decision shall be sent not later than ten days from the making of the decision to the applicant and to the agencies and persons mentioned in subsection (5), other than the Minister, together with written reasons for the decision.

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent may within thirty days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Board under the *Ontario Municipal Board Act*.

Appeal to
O.M.B.

R.S.O. 1980,
c. 347

(8) Where the applicant, the Minister or any agency or other person to whom notice of the decision was sent, is not satisfied as to the conditions or any of the conditions imposed by a council, he or it may within thirty days of the making of the decision appeal in respect of the conditions or any of the conditions by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal specifying the condition or conditions appealed and setting out written reasons in support of the appeal, accompanied by payment to the clerk of the fee prescribed by the Board under the *Ontario Municipal Board Act*.

Idem

(9) The clerk of the municipality upon receipt of a notice of appeal filed under subsection (7) or (8) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (7) or (8) to the Municipal Board by registered mail together with all papers and documents filed with the council relating to the matter appealed from and such other documents and papers as may be required by the Board.

Idem

(10) The Minister in determining whether a consent is to be given shall confer with such officials, authorities, corporations, bodies or persons as the Minister considers may have an interest in the application and thereafter may, subject to subsections (11) to (19), give, or refuse to give, the consent.

Minister
may confer
with officials,
etc.

(11) Where the Minister proposes to impose conditions to the giving of a consent, the Minister shall give written notice to the applicant specifying the conditions, and the Minister may change the conditions at any time prior to the giving of the consent.

Conditions

(12) Where the Minister proposes to refuse to give a consent, the Minister shall send notice to the applicant together with written reasons as to why it is proposed to refuse to give the consent and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the application for consent to the Municipal Board, the consent shall be deemed to have been refused.

Reasons
for refusal
to give
consent

(13) At any time before written notice is given to an applicant under subsection (11) specifying conditions, the Minister may, and upon application therefor accompanied by written reasons in support thereof shall, refer the application for consent to the

Referral
to O.M.B.

Municipal Board unless, in the opinion of the Minister, such request is not made in good faith, or is frivolous or vexatious or is made only for the purpose of delay, but in no event may an application for consent be referred to the Board after the Minister has given or refused to give the consent.

Idem

(14) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions imposed or to be imposed by the Minister, he or it, at any time before the consent is given, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister.

Hearing
by O.M.B.

(15) On an appeal to the Municipal Board under subsection (7) or where an application for a consent is referred to the Board under subsection (13) or where conditions are appealed or referred to the Board under subsection (8) or (14), the Board shall hold a hearing of which notice shall be given to such agencies or persons and in such manner as the Board may determine.

Dismissal
of appeal
without
hearing

(16) Despite subsection (15), the Municipal Board may, where it is of the opinion that the reasons in support of an appeal under subsection (7) or (8) are insufficient, dismiss the appeal without holding a full hearing, but before so dismissing the appeal, shall notify the appellant and afford him an opportunity to make representations as to the merits of the appeal.

Powers
of O.M.B.

(17) Following the hearing on an appeal under subsection (7) or a referral under subsection (13), the Municipal Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on a referral of conditions under subsection (8) or (14) the Board shall determine the question as to the condition or conditions referred to it.

Where consent
to be given

(18) Where under subsection (17) the decision of the Municipal Board is that a consent be given, the council or the Minister, as the case may be, shall thereupon give the consent, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

Where consent
to be given

(19) Where the decision of the council or the Minister on an application is to give a consent and there has been no appeal under subsection (7) or (8) and no referral under subsection (13) or (14), the consent shall be given, except that where conditions

have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

(20) Where conditions have been imposed and the applicant has not, within a period of one year from the giving of the notice mentioned in subsection (5) or (11), as the case may be, fulfilled the conditions, the application for consent shall thereupon be deemed to be refused.

Where conditions not fulfilled

(21) When a consent has been given under this section, the clerk of the municipality, the council of which gave the consent or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, despite any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent but, where the authority to give consents has been delegated under section 53 to a land division committee or to a committee of adjustment, the certificate shall be given by the secretary-treasurer of the appropriate committee.

Certificate that consent given

(22) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (21) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister, as the case may be, in giving the consent may provide for an earlier lapsing of the consent.

When consent lapses

(23) Where a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents any reference in this section to "the clerk of the municipality" shall be deemed to be a reference to the secretary-treasurer of such land division committee or committee of adjustment.

Reference to clerk deemed reference to secretary-treasurer

53.—(1) The council of a county or of a regional, metropolitan or district municipality, with the approval of the Minister, may, by by-law, delegate to the council of a constituent local or area municipality, as the case may be, the authority for the giving of consents under section 52 in respect of land situate in the local or area municipality.

Delegation of authority to give consents to constituent municipality

(2) Where authority is delegated to a council under subsection (1), such council may, in turn, by by-law, delegate the authority or any part of such authority, to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

Further delegation

Withdrawal
of delegated
powers

(3) The Minister may, at any time, revoke the approval given under subsection (1) by giving written notice thereof to the clerk of the council that passed the delegating by-law and to the clerk of the council that received the delegated authority and when such notice is given the delegation is thereupon terminated except that all applications for consent made prior to the giving of the notice shall continue to be dealt with as if the delegation had not been terminated.

Delegation to
committee of
council, etc.

(4) Except as delegated under subsection (1), the authority or any part of such authority of a council of a county or of a council of a regional, metropolitan or district municipality may be delegated by the council to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee.

Idem

(5) The council of a city that is not situate within a regional municipality or that is not situate within the Municipality of Metropolitan Toronto, the District Municipality of Muskoka or the County of Oxford and the council of any other local municipality that is within a county but that does not form part of the county for municipal purposes may, by by-law, delegate the authority of the council under section 52 or any part of such authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

Committee of
adjustment

(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications and the provisions of subsections 44 (4) to (20) do not apply, in the exercise of that authority.

Conditions,
withdrawal

(7) A delegation of authority made by a council under this section may be subject to such conditions as the council by by-law provides and the council may by by-law withdraw the delegation of authority provided however, where authority delegated under subsection (1) is withdrawn, all applications for consent made prior to the withdrawal shall continue to be dealt with as if the delegation had not been withdrawn.

District land
division
committee,
delegation

54.—(1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 52 in respect of such lands situate in a territorial district as are defined in the order.

Conditions
and
withdrawal
of delegation

(2) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

(3) Where the Minister has delegated his authority to a district land division committee under subsection (1), the provisions of subsections 43 (5), (6), (7) (8), (10) and (11) apply with necessary modifications. Application of s. 43

(4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 50 (6) apply with necessary modifications to any such agreement. Agreements

(5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them. Remuneration

(6) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be paid into the Consolidated Revenue Fund. Application of fees

55.—(1) The council of a county or of a regional, metropolitan or district municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable. Land division committee

(2) The provisions of subsections 43 (2) to (11) apply, with necessary modifications, where a land division committee is constituted under subsection (1) of this section. Application of s. 43 (2-11)

56.—(1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister. Effect of contravention of R.S.O. 1970, c. 349, s. 29, etc., on conveyances made prior to March 19th, 1973

(2) No order shall be made by the Minister under subsection (1) in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has by by-law requested the Minister to make such order, which such by-law the council is hereby empowered to pass. Proviso

(3) A council may, as a condition to the passage of a by-law under subsection (2), impose such conditions in respect of any land described in the by-law as it considers appropriate. Conditions

Proviso

(4) Nothing in this section derogates from the power a council or the Minister has to grant consents referred to in section 52.

PART VII

GENERAL

Application of
R.S.O. 1980,
c. 302,
to acquisition
of land

57. The provisions of the *Municipal Act* apply to the acquisition of land under this Act.

Power to
clear, grade,
etc., lands
acquired

58. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held.

Exchange
of lands

59. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality.

Fair
hearing

60. Where, in passing a by-law under this Act, a council is required by this Act, by the provisions of an official plan or otherwise by law, to afford any person an opportunity to make representation in respect of the subject-matter of the by-law, the council shall afford such person a fair opportunity to make representation but throughout the course of passing the by-law the council shall be deemed to be performing a legislative and not a judicial function.

Application of
Act to
Ontario Hydro

61.—(1) Except as provided in sections 3, 6 and 47 and subsection (2) of this section, this Act does not affect Ontario Hydro.

Idem

(2) Land and buildings owned by Ontario Hydro and used for executive, administrative or retail purposes or held under lease or licence from Ontario Hydro and, unless approved under the *Environmental Assessment Act*, any other undertaking of Ontario Hydro, are subject to this Act.

R.S.O. 1980,
c. 140

Effect of
approval or
consent of
O.M.B.

62.—(1) Where a matter is referred to the Municipal Board under this Act, the approval or consent of the Board has the same force and effect as if it were the approval or consent of the Minister or the council of a municipality.

Deemed
compliance
with Act

(2) Where an approval or consent is given under this Act, the provisions of this Act leading to such approval or consent shall be deemed to have been complied with.

Non-
application of
R.S.O. 1980,
c. 347, s. 94

63. Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of

any order or decision of the Municipal Board made in respect of any matter referred or appealed to the Board under this Act.

64. When under this Act the Minister has referred a matter to the Municipal Board, the matter may be taken back from the Board by the Minister at any time prior to a decision in respect thereof having been made by the Board, but where a matter has been referred to the Board pursuant to the request of any person, the matter shall not be taken back from the Board by the Minister except on the further request of such person and with the concurrence of all other persons, if any, who had requested that the matter be referred to the Board.

Resumption
by Minister
of matters
referred to
O.M.B.

65. Where the Minister or the council of a municipality delegates under this Act the authority to give an approval or consent, an approval or consent given under the authority has the same force and effect as if it were the approval or consent of the Minister or the council as the case may be.

Effect of
approval or
consent under
delegated
authority

66.—(1) Every person who contravenes section 40, 45 or 51 or who contravenes a by-law passed under section 34 or 37 or an order made under section 46 is guilty of an offence and on conviction is liable,

Penalty

- (a) on a first conviction to a fine of not more than \$20,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.

(2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed is,

Corporation

- (a) on a first conviction a fine of not more than \$50,000; and
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,

and not as provided in subsection (1).

(3) Where a conviction is entered under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibit-

Order of
prohibition

ing the continuation or repetition of the offence by the person convicted.

Saving
R.S.O. 1980,
c. 31, s. 57

67.—(1) Despite section 57 of the *Assessment Act*, it is not an offence to disclose the information referred to therein to any employee of a municipality who declares that such information is required in the course of his planning duties.

Offence

(2) An employee of a municipality who wilfully discloses or permits to be disclosed the information referred to in subsection (1) to any other person not likewise entitled in the course of his duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or to imprisonment for a term of not more than six months, or to both.

Exception

(3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration.

Tariff of
fees

68.—(1) The council of a municipality may by by-law prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality in respect of the processing of each type of application provided for in the tariff.

Reduction
or waiver
of fees

(2) Notwithstanding that a tariff of fees is prescribed under subsection (1) the council of a municipality, a committee of adjustment or a land division committee in processing an application may reduce the amount of, or waive the requirement for the payment of a fee in respect of the application where the council or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

Payment
under protest:
appeal to
O.M.B.

(3) Any person who is required to pay a fee for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Municipal Board against the levying of the fee or the amount of the fee by giving written notice of appeal to the Municipal Board within thirty days of payment of the fee.

Hearing

(4) The Municipal Board shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Board determines.

Regulations

69. The Lieutenant Governor in Council may make regulations,

- (a) prescribing for the purposes of subsection 17 (2), 28 (4) or 34 (12), the persons that are to be given notice and the manner in which notice is to be given;
- (b) prescribing for the purposes of subsection 34 (17), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;
- (c) prescribing for the purposes of subsection 35 (4), 37 (3) or 44 (5), the persons and agencies that are to be given notice, the manner in which notice is to be given and the information that must be contained therein;
- (d) providing for the charging of a fee on any application made in respect of a planning matter to a planning board that has had authority delegated to it by the Minister;
- (e) prescribing for the purposes of subsection 43 (11), rules of procedure for committees of adjustment;
- (f) prescribing for the purposes of subsection 52 (2), rules of procedure for councils and delegates thereof;
- (g) prescribing rules of procedure for district land division committees constituted under section 54;
- (h) prescribing agencies or persons for the purposes of subsection 52 (4); and
- (i) prescribing for the purposes of subsection 44 (11), the additional information and material required to be sent to the Minister.

70. In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. Conflict

71.—(1) Except as provided in subsection (2), every official plan that is in effect immediately before the day this Act comes into force shall remain in effect but may be amended or repealed in accordance with this Act. Official plans remain in effect

(2) Unless continued in force by an order made by the Minister under subsection (3), every official plan of a joint planning area, other than an official plan that was adopted by the council of a county and other than an official plan of a joint planning area in a territorial district, that is in effect immediately before the day this Act comes into force shall be deemed to be repealed two years from that day, if not sooner repealed. Repeal of joint official plans

Continuation
of joint
official
plans

(3) The Minister may by order provide for the remaining in force of any joint official plan or part or parts thereof that would otherwise be deemed to be repealed under subsection (2) and in such order may make such provision for the effectual continuation of such plan or the part or parts thereof as he considers necessary, including provision for the allocation of the plan or part or parts thereof to any local municipality or county situate wholly or partly within the area to which the plan applies.

Amendment
or repeal

(4) At any time during the two year period mentioned in subsection (2), the Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan.

Planning
areas and
boards
dissolved

72.—(1) Except as provided in subsection (3), on the day this Act comes into force all planning areas including joint planning areas and subsidiary planning areas, together with the planning boards thereof are dissolved.

Assets and
liabilities

(2) All the assets and liabilities of a planning board dissolved by this section are, in the case of a planning board of a planning area consisting of part or all of one municipality, assets and liabilities of such municipality and in the case of a planning board of a joint planning area, assets and liabilities of the municipalities that form part of the joint planning area and if such municipalities cannot agree as to the disposition of the assets and liabilities, the Municipal Board, upon the application of one or more of the municipalities, shall direct a final disposition thereof.

Planning
areas that
are continued

(3) Each planning area that immediately before the day this Act comes into force consists of the whole of two or more municipalities that are situate in a territorial district or consists of the whole of one or more municipalities and territory without municipal organization or consists solely of territory without municipal organization shall continue as a planning area under this Act without any change in name until altered or dissolved by the Minister.

Planning
boards
that are
continued

(4) Each planning board of a planning area mentioned in subsection (3) shall continue as a planning board under this Act without any change in name or constitution until the planning area is dissolved or the name or constitution of the planning board is changed by the Minister.

Members of
planning
boards
that remain
in office

(5) Persons who immediately before the day this Act comes into force are members of a planning board mentioned in subsection (4) shall remain in office until the expiry of the term of the council that appointed them and until their successors have been appointed under this Act.

73.—(1) The *Planning Act*, except section 40, being chapter 379 of the Revised Statutes of Ontario, 1980, is repealed. ^{Repeal}

(2) Section 40 of the said Act is repealed. ^{Idem}

74.—(1) In this section, “former Act” means the *Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980. ^{Interpretation}

(2) Despite section 73, any matter or proceeding mentioned in subsection (3) that has been commenced under the former Act before the day this Act comes into force shall be continued and finally disposed of under the former Act. ^{Matters, etc., continued under R.S.O. 1980, c. 379}

(3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced, in the case of, ^{When matters, etc., deemed commenced}

- (a) an official plan or an amendment thereto or a repeal thereof, on the day the by-law adopting the plan or adopting or proposing the amendment or repeal of the plan is passed;
- (b) a request under subsection 17 (3) of the former Act, on the day the request is made;
- (c) redevelopment under section 22 of the former Act, on the day the by-law designating the redevelopment area is passed;
- (d) subdivision of land under section 36 of the former Act, on the day the application is made under subsection (1) of that section;
- (e) a zoning by-law or an amendment thereto, on the day the by-law is passed;
- (f) an application under subsection 39 (23) of the former Act, on the day the application is made;
- (g) development in a site plan control area, on the day the application is made under subsection 40 (4) of the former Act;
- (h) an application made to a committee of adjustment, a land division committee or planning board for a planning area in a territorial district, on the day the application is made; and
- (i) an application to the Minister for a consent under section 29 of the former Act, on the day the application is made.

Commence-
ment

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

Short title

76. The short title of this Act is the *Planning Act, 1982*.



An Act to revise the Planning Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

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

*(Reprinted as amended by the General
Government Committee)*

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to revise the Planning Act

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



EXPLANATORY NOTES

The Bill is a revision of the *Planning Act*.

Many of the provisions of that Act, as they now exist, have been carried forward in the Bill, but within a re-organized format. The principal changes include:

1. Provincial interests in municipal planning are broadly identified to form a framework for local decision-making.
2. Provision is made for the Province to issue statements of policy, approved by the Lieutenant Governor in Council, on specific matters related to municipal planning.
3. The delegation of the powers of approval of the Minister of Municipal Affairs and Housing will be extended from regional municipalities to counties, cities outside of regional municipalities, separated towns, and other municipalities, provided specific criteria are met.
4. Provincial ministries, boards and agencies must consult and take local planning policies into account in carrying out activities that affect municipalities.
5. In southern Ontario, planning between two or more municipalities becomes a voluntary matter; in northern Ontario the existing provisions for joint planning remain.
6. Planning boards will no longer have a statutory role to plan in southern Ontario and this responsibility will rest directly with municipal councils.
7. Official plans will be focused primarily on physical matters, but attention will have to be paid to social, environmental and economic concerns in developing such plans.
8. Before adopting an official plan or zoning by-law, a municipality will have to hold a public meeting to discuss whether the proposed measures should be adopted.
9. Petitions to the Lieutenant Governor in Council on planning matters will be discontinued; instead the Municipal Board will hear and decide on most planning appeals, but the Minister will be able to define a matter to be of provincial interest in which case the Board holds a hearing and reports back to the Lieutenant Governor in Council who then makes the final decision.
10. If a matter of provincial interest, as set out in an approved policy statement, is at stake, the Minister may request a municipality to amend its official plan.
11. Once an upper-tier official plan has been approved, all lower-tier official plans and zoning by-laws must be brought into conformity with the upper-tier plan.
12. The existing system of controlling the development of land through zoning is retained, while being expanded and clarified to allow municipalities specific zoning controls in different types of by-laws.

13. With some exceptions in northern Ontario, land severances will be granted by regional municipalities, counties and cities outside of regions, with provision for regional municipalities and counties to delegate consents to any local municipality with the Minister's concurrence.
14. The matters to be considered in approving a subdivision plan have been expanded to include the effect of the physical layout on energy conservation measures.
15. Ontario Hydro will be exempt from the provisions of the Act, except for lands and buildings used for executive and administrative purposes and except for undertakings of Ontario Hydro, unless approved or exempted under the *Environmental Assessment Act*.
16. The penalties that can be imposed for the violation of municipal by-laws under the Act have been substantially increased.
17. The different time periods for notice, referral and appeal provided for throughout the Act have been made as consistent as possible.

Provision is made for the dissolution of planning areas and planning boards in southern Ontario and for their continuation in northern Ontario; for the continuation of official plans in effect prior to the coming into force of the new Act, and for the disposition of various matters and proceedings that have been commenced, but not completed, under the existing *Planning Act* prior to the coming into force of the new Act.

The Bill is divided into the following Parts:

	Pages
PART I — Provincial Administration	2—4
PART II — Local Planning Administration	5—7
PART III — Official Plans	7—16
PART IV — Community Improvement	16—27
PART V — Land Use Controls and Related Administration	27—50
PART VI — Subdivision of Land	50—67
PART VII — General	67—73



BILL 159

1982

An Act to revise 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. In this Act,

Interpre-
tation

- (a) “committee of adjustment” means a committee of adjustment constituted under section 44;
- (b) “land division committee” means a land division committee constituted under section 56;
- (c) “local board” means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;
- (d) “local municipality” means a city, town, village and township;
- (e) “Minister” means the Minister of Municipal Affairs and Housing;
- (f) “Municipal Board” means the Ontario Municipal Board;
- (g) “municipality” means a local municipality, a county and a regional, metropolitan or district municipality;
- (h) “official plan” means a document approved by the Minister containing objectives and policies established primarily to provide guidance for the physical development of a municipality or a part thereof or an

area that is without municipal organization, while having regard to such social, economic and environmental matters as appear to be relevant;

- (i) "prescribed" means prescribed by the regulations;
- (j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality or a local board;
- (k) "regulations" means regulations made under this Act.

PART I

PROVINCIAL ADMINISTRATION

Respon-
sibility of
Minister

2. The Minister, in carrying out his responsibilities under this Act, will have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of the natural environment, including the agricultural resource base of the Province, and the management of natural resources;
- (b) the protection of features of significant natural, architectural, historical or archaeological interest;
- (c) the supply, efficient use and conservation of energy;
- (d) the provision of major communication, servicing and transportation facilities;
- (e) the equitable distribution of educational, health and other social facilities;
- (f) the co-ordination of planning activities of municipalities and other public bodies;
- (g) the resolution of planning conflicts involving municipalities and other public bodies; and
- (h) the protection of the financial and economic well-being of the Province and its municipalities.

Policy
statements

3.—(1) The Minister may from time to time issue policy statements that have been approved by the Lieutenant Governor in Council on matters relating to municipal planning that in the opinion of the Minister are of provincial interest, and any other minister of the Crown may, jointly with the Minister, issue such policy statements.

(2) Before issuing a policy statement, the Minister shall confer with such municipal, provincial, federal or other officials and bodies or persons as the Minister considers have an interest in the proposed statement. Minister to confer

(3) Where a policy statement is issued under subsection (1), the Minister shall give notice or cause to be given notice thereof, in such manner as he considers appropriate, to all municipalities and to such other agencies or persons as he considers have an interest in the statement. Notice

(4) Each municipality that receives notice of a policy statement under subsection (3) shall in turn give notice of the statement to each local board of the municipality that it considers has an interest in the statement. Idem

(5) In exercising any authority that affects any planning matter, the council of every municipality, every local board, every minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro, shall have regard to policy statements issued under subsection (1). Regard to be had to policy statements

4.—(1) The Minister, on the request of the council of any municipality, may, by order, delegate to the council any of the Minister's authority under this Act, under section 50 of the *Condominium Act*, under subsection 298 (11) and subsection 306 (2) of the *Municipal Act*, under subsection 82 (3) of the *Registry Act* and under section 145 of the *Land Titles Act* and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. Delegation of Minister's powers: to municipality R.S.O. 1980, cc. 84, 302, 445, 230

(2) The Minister may by order delegate to a planning board of a planning area in a territorial district any of the Minister's authority under this Act and where the Minister has delegated any such authority the planning board has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the planning board shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. to planning board

(3) A delegation made by the Minister under subsection (1) or (2) may be subject to such conditions as the Minister may by order provide. Conditions

(4) The Minister may by order withdraw any delegation made under subsection (1) or (2) and, without limiting the generality of Withdrawal of delegation of powers

the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation, and immediately following any such withdrawal the council or the planning board, as the case may be, shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation or the planning board that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council or the planning board prior to such withdrawal.

Further
delegation
of powers

5.—(1) Where the Minister has delegated any authority to a council under section 4, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans and amendments thereto, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer, as the case may be, has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Conditions

(2) A delegation made by a council under subsection (1) may be subject to such conditions as the council may by by-law provide and as are not in conflict with any conditions provided by order of the Minister under section 4.

Withdrawal of
delegation of
powers

(3) A council may by by-law withdraw any delegation made under subsection (1), whereupon the provisions of subsection 4 (4) apply with necessary modifications.

Interpre-
tation

6.—(1) In this section, “ministry” means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government and Ontario Hydro.

Consultation

(2) A ministry, before carrying out or authorizing any undertaking that the ministry considers will directly affect any municipality, shall consult with, and have regard for, the established planning policies of the municipality.

Grants

7. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants of money to assist in the performing of any duty or function of a planning nature.

PART II

LOCAL PLANNING ADMINISTRATION

8.—(1) The council of a municipality may appoint a planning advisory committee composed of such persons as the council may determine. Planning advisory committee

(2) The councils of two or more municipalities may appoint a joint planning advisory committee composed of such persons as the councils may by agreement determine. Joint committee

(3) Persons appointed to a committee under this section may be paid such remuneration and expenses as the council or councils may determine, and where a joint committee is appointed, the councils may by agreement provide for apportioning to their respective municipalities the costs of the payments. Remuneration

9.—(1) The Minister may define and name a planning area consisting of the whole of two or more municipalities that are situate in a territorial district or consisting of the whole of one or more municipalities and territory without municipal organization. Planning area defined by Minister

(2) Where a planning area is defined under subsection (1), the Minister shall establish the planning board for the planning area and specify the name of the board and the number of members to be appointed to it by the council of each municipality within the planning area and the number of members, if any, to be appointed by the Minister. Planning board for planning area

(3) The council of each municipality shall appoint to the planning board the number of members specified by the Minister under subsection (2), of which members at least one shall be a member of the council of the municipality and, after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized. Appointments to board

- (4) The members, Term of office
 - (a) appointed by the council of each municipality shall hold office for the term of the council that appointed them; and
 - (b) appointed by the Minister shall hold office for the term specified by the Minister in their appointment,

and until their successors are appointed.

10. The Minister may define and name a planning area consisting of territory without municipal organization and may Planning area in unorganized territory

establish and name a planning board for the planning area and appoint the members thereof.

Body
corporate,
quorum

11.—(1) A planning board is a body corporate and a majority of its members constitutes a quorum.

Chairman

(2) A planning board shall annually elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

Secretary-
treasurer,
employees,
consultants

(3) A planning board shall appoint a secretary-treasurer, who may be a member of the board, and may engage such employees and consultants as is considered appropriate.

Execution of
documents

(4) The execution of documents by a planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the board.

Estimates:
one
municipality

12.—(1) A planning board established by the Minister for a planning area consisting of one municipality and territory without municipal organization shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time.

two or more
municipalities

(2) In the case of a planning board established for a planning area consisting of two or more municipalities or consisting of two or more municipalities and territory without municipal organization, the planning board shall annually submit its estimates to the council of each of such municipalities together with a statement as to the proportion thereof to be chargeable to each municipality.

When
estimates
binding

(3) If the estimates submitted under subsection (2) are approved, or are amended and approved, by the councils of municipalities representing more than one-half of the population of the planning area for which the board was established, the estimates are binding on all the municipalities.

Notification

(4) After the estimates have been approved as provided in subsection (3), the planning board shall so notify each municipality involved and shall notify each such municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection (2).

Where
apportionment
not
satisfactory

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the

notice under subsection (4), notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Board.

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final. Power of O.M.B.

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection (4) or by the Municipal Board under subsection (6), as the case may be. Payment

13. Any municipality within a planning area may make grants of money to the planning board of the planning area. Municipal grants

14.—(1) A planning board shall provide advice and assistance in respect of such planning matters affecting the planning area as are referred to the board, Duties of planning board: advice and assistance

(a) by the councils to which the board submits its estimates under section 12, or by any of such councils; or

(b) by the Minister, in the case of a planning board appointed for a planning area consisting solely or partially of territory without municipal organization.

(2) A planning board shall prepare a plan suitable for adoption as the official plan of the planning area, or at the request of any of the councils mentioned in subsection (1), prepare a plan suitable for adoption as the official plan of the municipality of which it is the council. Preparation of official plan

15. The council of a county or of a regional, metropolitan or district municipality, on such terms and conditions as may be agreed upon with the council of a local municipality that for municipal purposes forms part of the county or that forms part of the regional, metropolitan or district municipality, as the case may be, may, Upper-tier municipalities; planning functions

(a) assume any authority, responsibility, duty or function of a planning nature that the local municipality has under this or any other Act; or

(b) provide advice and assistance to the local municipality in respect of planning matters generally.

PART III

OFFICIAL PLANS

16. In addition to the objectives and policies referred to in clause 1 (h), an official plan may contain a description of, Contents of official plan

- (a) the measures and procedures proposed to attain the objectives of the plan;
- (b) the measures for informing and securing the views of the public in respect of proposed objectives and policies for the plan; and
- (c) the measures for reviewing the official plan from time to time.

Preparation
of official
plan by
municipality

17.—(1) The council of a municipality may provide for the preparation of a plan suitable for adoption as the official plan of the municipality.

Notice

(2) The council, before adopting a plan that has been prepared,

- (a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where council will hold a meeting to consider the adoption of the plan which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and
- (b) shall, in the manner and to the agencies and containing the information prescribed, give notice that council is considering the adoption of the plan.

Open
meeting

(3) The meeting mentioned in clause (2) (a) shall be open to the public and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the adoption of the proposed plan.

Comments
by agency

(4) An agency may, within thirty days of the giving of the notice mentioned in clause (2) (b), or within such further period of time as the council may subsequently allow, submit comments to the council on the adoption of the proposed plan.

Adoption of
plan

(5) After the meeting mentioned in clause (2) (a) has been held and after the time for submitting comments under subsection (4) has elapsed, the council when it is satisfied that the plan as finally prepared is suitable for adoption may by by-law adopt the plan and submit it to the Minister for approval.

Record

(6) When the plan is adopted, the clerk of the municipality shall compile and forward to the Minister a record which shall include,

- (a) a certified copy of the by-law adopting the plan;

- (b) an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsections (2) and (7) have been complied with;
- (c) the original or a true copy of all written submissions and material in support of the submissions received prior to the adoption of the plan and of all comments received from agencies under subsection (4); and
- (d) such other information or material as the Minister may require.

(7) Where the council adopts the plan, the clerk of the municipality shall, not later than ten days after the day the plan was adopted, give written notice of the adoption of the plan to the Minister, to every person who filed with the clerk at the meeting mentioned in clause (2) (a) or at any time prior thereto, a written request to be notified if the plan is adopted and to every agency that submitted comments under subsection (4) and that in writing requested to be notified if the plan is adopted.

Notice

(8) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the plan and, subject to subsection (10), may then approve, or, after consultation with the council, refuse to approve the plan or, if modifications appear desirable to the Minister, he may, after consultation with the council, make the modifications to the plan and approve the plan as modified.

Approval, refusal to approve or modification of plan by Minister

(9) The Minister, instead of approving the whole of the plan, may approve part only of the plan and may, from time to time, approve additional parts of the plan, provided that nothing herein derogates from the right of any person to request the Minister to refer any part of the plan to the Municipal Board under subsection (10).

Approval of plan in part

(10) The Minister may refer the plan or any part of the plan to the Municipal Board and where the council or any person or agency requests the Minister, within thirty days from the date the plan was adopted, to refer the plan or any part of the plan to the Municipal Board, the Minister shall refer the plan or such part to the Board, together with the statement mentioned in subsection (11) unless, in his opinion, referral to the Board would serve no useful purpose or unless, in his opinion, the request is made only for the purpose of delay.

Referral of plan or part thereof to O.M.B.

(11) Where a person submits a request to the Minister under subsection (10) he shall include therewith a statement in writing setting out the reasons for the request.

Reasons

- Parties (12) The parties to a referral are the person or agency, if any, that requested the referral, the municipality and any person or agency added as a party by the Municipal Board.
- Adding of parties (13) The Municipal Board may add as a party to the referral any person, including the Minister or agency who applies to the Board to be added as a party.
- Representations by person not a party (14) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.
- Notice (15) On a referral to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons as the Board considers appropriate.
- Establishment of issues by O.M.B. (16) The Municipal Board may, on the basis of the statement mentioned in subsection (11), the record mentioned in subsection (6) and such other matters as the Board considers proper to take into account, establish the issues that are in dispute in a referral and where the Board does so a party to the referral may not, except with the leave of the Board, introduce at the hearing any evidence or present any argument that is not relevant to the issues in dispute as established by the Board.
- Decision (17) The Municipal Board may make any decision that the Minister could have made.
- Where provincial interest adversely affected (18) Where the plan or any part of the plan is referred to the Municipal Board under subsection (10), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the part thereof, may so advise the Board in writing not later than ten days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the plan or the part or parts of the part of the plan, as the case may be, by which the provincial interest is, or is likely to be, adversely affected.
- Procedure by O.M.B. (19) Where the Municipal Board receives notice from the Minister under subsection (18), the Board shall not proceed under subsection (17) in respect of the part or parts identified in the notice but shall, following the hearing, make a report to the Lieutenant Governor in Council setting out its findings and recommendations in respect of such part or parts and shall send a copy of the report to the Minister, to each party to the referral and to any person who in writing requests a copy of the report.
- Disposition by L.G. in C. (20) After considering the report of the Municipal Board the Lieutenant Governor in Council shall make a final disposition of

the part or parts dealt with in the report and in so doing may direct the Minister to modify the plan or the part of the plan in accordance with such final disposition.

18.—(1) Where a plan is prepared by a planning board, the plan shall not be recommended to any council for adoption as an official plan unless it is approved by a vote of the majority of all the members of the planning board. Recommendation of plan

(2) When the plan is approved by the planning board, the board shall submit a copy thereof, certified by the secretary-treasurer of the board to be a true copy, Submission of plan to council

(a) in the case of a plan prepared for a planning area, to the council of each municipality that is within the planning area; and

(b) in the case of a plan prepared at the request of a single municipality, to the council of that municipality,

together with a recommendation that it be adopted by the council.

(3) Each council to which the plan is submitted may, subject to subsections 17 (2) to (5), by by-law adopt the plan and the clerk of each municipality, the council of which adopted the plan, shall provide the secretary-treasurer of the planning board with a certified copy of the adopting by-law and shall comply with subsections 17 (6) and (7). Adoption of plan

(4) When the secretary-treasurer of the planning board has received a certified copy of an adopting by-law from a majority of the councils to which the plan was submitted he shall submit the plan to the Minister for approval together with each certified copy of the adopting by-law, and thereafter subsections 17 (8) to (20) apply. Submission of plan to Minister

(5) Where a planning area consists of the whole of one or more municipalities and territory without municipal organization the provisions of subsections 17 (3) to (20) apply, with necessary modifications, in respect of the part of the planning area that consists of territory without municipal organization as though the planning board were the council of a municipality and the secretary-treasurer of the planning board were the clerk of the municipality. Application of s. 17 (3-20)

19. Before adopting a plan for a planning area consisting solely of territory without municipal organization, the planning board, Adoption of plan in unorganized territory

- (a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where the board will hold a meeting to consider the adoption of the plan which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and
- (b) shall, in the manner and to the agencies and containing the information prescribed, give notice that the board is considering the adoption of the plan,

and thereafter subsections 17 (3) to (20) apply, with necessary modifications, as though the planning board were the council of a municipality and the secretary-treasurer were the clerk of the municipality.

Lodging
of plan

20.—(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister and a duplicate original of the official plan shall be lodged in every land registry office of lands to which the plan applies.

Who to
lodge plan

- (2) The lodging required by subsection (1) shall be carried out,
 - (a) in the case of an official plan that applies to only one municipality or part thereof or to only one municipality and territory without municipal organization, by the clerk of the municipality; and
 - (b) in the case of an official plan that applies to more than one municipality or parts thereof, by the clerk of the municipality that has the largest population.

Public
inspection

(3) All copies and duplicate originals lodged under subsection (1) shall be available for public inspection during office hours.

Amendment
or repeal
of plan

21.—(1) Except as hereinafter provided, the provisions of this Act with respect to an official plan apply, with necessary modifications, to amendments thereto or the repeal thereof, provided that the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and the provisions of section 17 apply to any such amendment or repeal.

Waiver of
requirement
for approval

(2) Where the Minister is satisfied that there is not a matter of provincial interest adversely affected by an amendment to an official plan submitted to him for approval and no request for referral has been received under subsection 17 (10) he may, in writing, waive the requirement for approval thereof, whereupon the amendment shall be deemed to be approved.

22.—(1) Where any person requests a council to initiate an amendment to an official plan, other than an official plan that applies in whole or in part to territory without municipal organization, and the council refuses to adopt the amendment or fails to adopt it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board.

Referral of proposed amendment to plan to O.M.B.

(2) Where any person requests a planning board to initiate an amendment to an official plan that applies in whole or in part to territory without municipal organization and the planning board refuses to adopt the amendment or to recommend the amendment for adoption, as the case may be, or fails to adopt or recommend it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board.

Idem

(3) The Minister may confer on the proposed amendment in like manner as he is authorized to confer under subsection 17 (8) and he may refuse the request to refer the proposed amendment to the Municipal Board or may refer the proposed amendment to the Board.

Powers of Minister to confer, etc.

(4) The provisions of subsections 17 (12) to (16) apply with necessary modifications when a proposed amendment is referred to the Municipal Board under subsection (3) and the Board shall hold a hearing and thereafter reject the proposed amendment or direct that the council cause the amendment to be made in the manner provided in the order of the Board.

Application of s. 17 (12-16)

(5) Where a proposed amendment is referred to the Municipal Board under subsection (3), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the proposed amendment, may so advise the Municipal Board in writing not later than ten days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the proposed amendment by which the provincial interest is, or is likely to be, adversely affected.

Where provincial interest adversely affected

(6) Where the Municipal Board receives notice from the Minister under subsection (5), the Board shall not proceed under subsection (4) in respect of the part or parts identified in the notice but shall, following the hearing, make a report to the Lieutenant Governor in Council setting out its findings and recommendations in respect of such part or parts and shall send a copy of the report to the Minister, to each party to the referral and to any person who in writing requests a copy of the report.

Procedure by O.M.B.

(7) After considering the report of the Board the Lieutenant Governor in Council shall make a final disposition of the part or

Disposition by L.G. in C.

parts dealt with in the report and in so doing may direct the Minister to modify the plan or the part of the plan in accordance with such final disposition.

Request by
Minister to
amend plan

23.—(1) Where the Minister is of the opinion that a matter of provincial interest as set out in a policy statement issued under section 3 is, or is likely to be, adversely affected by an official plan, the Minister may request the council of a municipality to adopt such amendment as the Minister specifies to an official plan and, where the council refuses the request or fails to adopt the amendment within such time as is specified by the Minister in his request, the Minister may make the amendment.

Hearing
by O.M.B.

(2) Where the Minister proposes to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality shall, request the Municipal Board to hold a hearing on the proposed amendment and the Board shall thereupon hold a hearing as to whether the amendment should be made.

Refusal to
refer to
O.M.B.

(3) Despite subsection (2), where the Minister is of the opinion that a hearing by the Municipal Board would serve no useful purpose or that the request is made only for the purpose of delay, he may refuse the request.

Notice

(4) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (2), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Report to
Minister

(5) At the conclusion of the hearing, the Municipal Board shall make a report to the Minister in which shall be set out the Board's findings and recommendations in respect of the proposed amendment and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter and to any person who in writing requests a copy of the report.

Amendment
by Minister

(6) After considering the report of the Municipal Board, the Minister may make such amendment, if any, as he considers appropriate.

Public works
and by-laws
to conform
with plan

24.—(1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith.

Validity
of by-laws
conforming
with
amendments
to plans

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment,

pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

(3) Despite subsections (1) and (2), the council of a municipality may take into consideration the undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan.

Preliminary steps that may be taken where proposed public work would not conform with official plan

(4) Where a by-law is passed under section 34 by the council of a municipality in which an official plan is in effect and, within the time limited for appeal,

When zoning by-law deemed to conform with official plan

(a) no appeal is taken; or

(b) an appeal is taken and the appeal is dismissed or the by-law is amended as directed on the appeal,

the by-law shall be conclusively deemed to be in conformity with the official plan, except that where the by-law is passed in the circumstances mentioned in subsection (2) the by-law shall be conclusively deemed to be in conformity with the official plan on and from the day the by-law was passed, if the Minister approves the amendment to the official plan as mentioned in subsection (2).

25.—(1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

Acquisition of lands in accordance with provisions of plan

(2) Any municipality may contribute towards the cost of acquiring land under this section.

Contribution towards cost

26.—(1) The council of every municipality that has adopted and had approved an official plan shall from time to time, and not less frequently than every five years, hold a special meeting of council, open to the public, for the purpose of determining the need for a review of the official plan.

Review of plan

Direction by
Minister

(2) Despite subsection (1), the Minister may, at any time, direct the council of a municipality to undertake a review of any official plan or part thereof in effect in the municipality and when so directed the municipal council shall cause the review to be undertaken without undue delay.

Amendments
to conform
with upper-tier
plans

27.—(1) When the Minister has approved an official plan adopted by a county or by a regional, metropolitan or district municipality,

(a) every official plan; and

(b) every zoning by-law passed under section 34 of this Act or a predecessor thereof,

that is then in effect in the area affected by the county, regional, metropolitan or district plan shall be amended to conform therewith.

Amendment
by upper-tier
municipality

(2) Where an official plan is approved as mentioned in subsection (1) and any official plan or zoning by-law is not amended as required by that subsection within one year of the approval of the plan, the council of the county or of the regional, metropolitan or district municipality may thereupon amend the official plan or zoning by-law, as the case may be, in like manner and subject to the same requirements and procedures as if such council was the council that failed to make the amendment within the one year period as herein required.

Deemed to
be by-law of
lower-tier
municipality

(3) Where an amending by-law is passed under subsection (2) by the council of a county or the council of a regional, metropolitan or district municipality, the amending by-law shall be deemed for all purposes to be a by-law passed by the council of the municipality that passed the by-law that was amended.

PART IV

COMMUNITY IMPROVEMENT

Interpre-
tation

28.—(1) In this section,

(a) “community improvement” means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, reconstruction and rehabilitation, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;

- (b) "community improvement plan" means a plan approved by the Minister under section 17 as part of an official plan, for the community improvement of a community improvement project area;
- (c) "community improvement project area" means an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other reason.

(2) Where there is an official plan in effect in a local municipality that contains provisions outlining a strategy for community improvement in the municipality, the council may, by by-law, designate the whole or any part of an area covered by such an official plan as a community improvement project area.

Designation
of community
improvement
project area

(3) When a by-law has been passed under subsection (2), the municipality may,

Acquisition
and clearance
of land

- (a) acquire land within the community improvement project area with the approval of the Minister if the land is acquired before the community improvement plan mentioned in subsection (4) is approved and without the approval of the Minister if the land is acquired after the community improvement plan is approved;
- (b) hold land acquired before or after the passing of the by-law within the community improvement project area; and
- (c) clear, grade or otherwise prepare the land for community improvement.

(4) When a by-law has been passed under subsection (2), the council may provide for the preparation of a plan, as part of an official plan, suitable for adoption as a community improvement plan for the community improvement project area.

Preparation
of
community
improvement
plan

(5) The Minister may, in writing, deem the provisions outlining a strategy for community improvement mentioned in subsection (2) to be a community improvement plan for the purposes of this section.

Deemed
community
improvement
plan

(6) For the purpose of carrying out the community improvement plan, the municipality may,

Powers of
council
re land

- (a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improve-

ment project area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

(b) sell, lease or otherwise dispose of any land acquired or held by it in the community improvement project area to any person or governmental authority for use in conformity with the community improvement plan.

Grants or loans

(7) For the purpose of carrying out the community improvement plan, the municipality may make grants or loans to the registered owners or assessed owners of lands and buildings within the community improvement project area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the community improvement plan.

Application of s. 32 (2, 3)

(8) The provisions of subsections 32 (2) and (3) apply with necessary modifications to any loan made under subsection (7) of this section.

Conditions of sale, etc.

(9) Until a by-law or amending by-law passed under section 34 after the adoption of the community improvement plan is in force in the community improvement project area, no land acquired, and no building constructed, by the municipality in the community improvement project area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of enters into a written agreement with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the community improvement plan until such a by-law or amending by-law is in force, but the municipality may, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the community improvement plan, for a term of not more than three years at any one time.

Registration of agreement

(10) An agreement entered into under subsection (9) may be registered against the land to which it applies and the municipality shall be entitled to enforce the provisions thereof against any party to the agreement and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners or tenants of the land.

R.S.O. 1980, c. 445, 230

Debentures R.S.O. 1980, c. 302

(11) Despite subsection 143 (1) of the *Municipal Act*, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides.

Dissolution of area

(12) When the council is satisfied that the community improvement plan has been carried out, the council may, by by-law, dissolve the community improvement project area.

29. A municipality, with the approval of the Minister, may enter into any agreement for the carrying out of studies and the preparation and implementation of plans and programs for the development or improvement of the municipality.

Agreement
re special
studies

30. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the community improvement of a community improvement project area as defined in section 28, including the carrying out of studies for the purpose of selecting areas for community improvement.

Agreements
for grants
in aid of
community
improvement

31.—(1) In this section,

Interpre-
tation

- (a) “committee” means a property standards committee established under this section;
- (b) “occupant” means any person or persons over the age of eighteen years in possession of the property;
- (c) “officer” means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;
- (d) “owner” includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;
- (e) “property” means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;
- (f) “repair” includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform with the standards established in a by-law passed under this section.

Adoption of
policy
statement

(2) Where there is no official plan in effect in a local municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions.

Standards
for
maintenance
and
occupancy

(3) If,

(a) an official plan that includes provisions relating to property conditions is in effect in a local municipality;
or

(b) the council of a local municipality has adopted a policy statement as mentioned in subsection (2),

the council of the municipality may pass a by-law,

(c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards;

(d) for requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

Inspection

(4) Subject to subsection (5), when a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

Entry
into
dwelling
place
R.S.O. 1980,
c. 400

(5) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

Notice of
violation

(6) If, after inspection, the officer is satisfied that in some respect the property does not conform with the standards prescribed in the by-law, he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to, the owner of the property and all persons shown by the records of the land registry office and the sheriff's office to have any interest

therein a notice containing particulars of the nonconformity and may, at the same time, provide all occupants with a copy of such notice.

(7) After affording any person served with a notice provided for by subsection (6) an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing, Contents of order

- (a) the municipal address or the legal description of such property;
- (b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and
- (c) the final date for giving notice of appeal from the order.

(8) A notice or an order under subsection (6) or (7), when sent by registered mail shall be sent to the last known address of the person to whom it is sent. Order to be sent to last known address

(9) If the officer is unable to effect service under subsection (6) or (7), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons. Substituted service

(10) An order under subsection (7) may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under subsection (7) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order. Registration of notice

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such persons, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of Property standards committee

the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

Chairman,
acting
chairman,
secretary

(12) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member as acting chairman and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

Remuner-
ation

(13) The members of the committee shall be paid such compensation as the council may provide.

Filing of
documents, etc.

R.S.O. 1980,
c. 302

(14) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

Quorum and
procedure

(15) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection (17) shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

Appeal to
committee

(16) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.

Decision
on appeal

(17) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

Appeal to
judge

(18) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (17) may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

(a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appoint-

ment may direct that it shall be served upon such persons and in such manner as he prescribes;

- (b) the appointment shall be served in the manner prescribed; and
- (c) the judge on such appeal has the same powers and functions as the committee.

(19) The order, as deemed to have been confirmed under subsection (16), or as confirmed or modified by the committee under subsection (17) or, in the event of an appeal to the judge under subsection (18), as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order. Effect of decisions

(20) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies, Power of corporation to repair or demolish

- (a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and
- (b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

(21) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection (3), and the council of a municipality may prescribe a fee payable for such a certificate where it is issued at the request of the owner. Certificate of compliance

(22) An owner who fails to comply with an order that is final and binding under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each day that the contravention has continued. Enforcement

32.—(1) When a by-law under section 31 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 31 (6) to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe. Grants or loans for repairs

Loans collected as taxes, lien on land

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

Interpretation

33.—(1) In this section,

- (a) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;
- (b) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

Establishment of demolition control area by by-law

(2) When a by-law under section 31 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section.

Council may issue or refuse to issue permit

(3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

Appeal to O.M.B.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant

may appeal to the Municipal Board and the Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

(5) The person appealing to the Municipal Board under subsection (4) shall, in such manner and to such persons as the Board may direct, give notice of the appeal to the Board.

Notice of
appeal

(6) Subject to subsection (7), the council shall, on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished.

Application
for demolition
permit
where building
permit
issued

(7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

Conditions of
demolition
permit

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection (7), a certificate signed by the clerk setting out the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

Registration
of certificate

(9) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

Appeal to
O.M.B.

Application to council for relief from conditions of demolition permit

(10) Where any person who has obtained a demolition permit under subsection (6) that is subject to conditions under subsection (7) considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Powers of council on application

(11) Where an application is made under subsection (10), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

Appeal to O.M.B.

(12) Any person who has made application to the council under subsection (10) may appeal from the decision of the council to the Municipal Board within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection (11) and the decision of the Board shall be final.

Offence

(13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$20,000 for each dwelling unit contained in the residential property, the whole or any portion of which residential property has been demolished, or to imprisonment for a term of not more than six months, or to both.

Standards for health and safety remain in force

(14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition control.

Certain proceedings stayed

(15) Subject to subsection (14), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any

by-law under section 31 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon.

(16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in section 5 of the *Building Code Act*. Application of R.S.O. 1980, c. 51, s. 5

PART V

LAND USE CONTROLS AND RELATED ADMINISTRATION

34.—(1) Zoning by-laws may be passed by the councils of local municipalities: Zoning by-laws

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway. Restricting use of land
2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway. Restricting erecting, locating or using of buildings
3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land where, by reason of its steep slopes or its rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive. Marshy lands
4. For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy. Construction of buildings or structures
5. For regulating the minimum elevation of doors, windows or other openings in buildings or structures or in any class or classes of buildings or structures to be Minimum elevation of doors, etc.

erected or located within the municipality or within any defined area or areas of the municipality.

Loading or parking facilities

6. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway.

Pits and quarries

7. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof.

Minimum area and density provisions

(2) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law.

Interpretation
R.S.O. 1980,
c. 302

(3) A trailer as defined in clause (a) of paragraph 95 of section 210 of the *Municipal Act* and a mobile home as defined in clause 46 (1) (a) of this Act shall be deemed to be a building or structure for the purposes of this section.

Prohibition of use of land, etc., availability of municipal services

(4) A by-law heretofore or hereafter passed under paragraph 1 or 2 of subsection (1) or a predecessor of such paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be.

Certificates of occupancy

(5) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law.

Use of maps

(6) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

Acquisition and disposition of non-conforming lands

(7) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land,

building or structure or may exchange any of such land for other land within the municipality.

(8) No by-law passed under this section applies,

Excepted
lands and
buildings

(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or

(b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure for which a permit has been issued under section 5 of the *Building Code Act*, prior to the day of the passing of the by-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under section 6 of the *Building Code Act*.

R.S.O. 1980,
c. 51

(9) Despite any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed.

By-law
may be
amended

(10) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.

Appeal to
O.M.B.

(11) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (10), the council,

Notice of
meeting to
consider
passing
by-law

(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where council will hold a meeting to consider the passing of a by-law, which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and

(b) shall, in the manner and to the agencies and containing the information prescribed, give notice that council is considering passing a by-law.

Open
meeting

(12) The meeting mentioned in clause (11) (a) shall be open to the public and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the passing of the by-law.

Agency
comments

(13) An agency may, within thirty days of the giving of the notice mentioned in clause (11) (b), or within such further period of time as the council may subsequently allow, submit comments to the council in respect of the passing of the by-law.

Record

(14) Where the council passes the by-law, the clerk of the municipality shall compile a record which shall include,

(a) a copy of the by-law certified by him;

(b) an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsections (11) and (15) have been complied with;

(c) the original or a true copy of all written submissions and material in support of the submissions received prior to the passing of the by-law and of all comments received from agencies under subsection (13); and

(d) where no notice of appeal to the Municipal Board is filed under subsection (16), an affidavit or declaration duly sworn certifying such fact.

Notice of
passing of
by-law

(15) Where the council passes the by-law, the clerk of the municipality shall, not later than ten days after the day the by-law was passed, give written notice of the passing of the by-law to the Minister, to every person who filed with the clerk at the meeting mentioned in clause (11) (a) or at any time prior thereto a written request to be notified if the by-law is passed and to every agency that submitted comments under subsection (13) and that in writing requested to be notified if the by-law is passed.

Appeal to
O.M.B.

(16) Any person including the Minister, or agency may, within thirty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

When by-law
deemed to
have come
into force

(17) When no notice of appeal is filed under subsection (16), the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 24 (2) the by-law shall not be deemed to have come into force on the day it was passed until the Minister has approved the amendment to the official plan as mentioned in subsection 24 (2).

(18) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsections (11) and (15) or that no notice of appeal was filed under subsection (16) within the time allowed for appeal shall be conclusive evidence of the facts stated therein.

Affidavit re
no appeal,
etc.

(19) The clerk of the municipality, upon receipt of a notice of appeal under subsection (16), shall forward the notice of appeal together with the record mentioned in subsection (14) to the secretary of the Municipal Board and shall provide such other information or material as the Board may require in respect of the appeal.

Forwarding of
record, etc., to
O.M.B.

(20) The parties to an appeal are the appellant, the municipality and any person or agency added as a party by the Municipal Board.

Parties

(21) The Municipal Board may add as a party to the appeal any person including the Minister, or agency who applies to the Board to be added as a party.

Adding of
parties

(22) Despite the fact that a person is not a party to the appeal, the Municipal Board may permit the person to make representations at the hearing.

Representations by
person not
party

(23) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the appeal, and to such other persons as the Board considers appropriate.

Hearing

(24) Despite subsection (23), the Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a hearing, and where the Board does so it shall give written reasons therefor to the appellant and send a copy to all other parties to the appeal.

Dismissal of
appeal without
hearing

(25) The Municipal Board may, on the basis of the contents of the notice of appeal, the record that accompanied the notice and such other matters as the Board considers proper to take into account, establish the issues that are in dispute in an appeal and where the Board does so a party to the appeal may not, except with the leave of the Board, introduce at the hearing any evidence or present any argument that is not relevant to the issues in dispute as established by the Board.

Establishment
of issues

(26) The Municipal Board may,

Powers of
O.M.B.

(a) dismiss the appeal; or

(b) allow the appeal in whole or in part and direct the council of the municipality to repeal the by-law or to amend the by-law in accordance with the Board's order.

Application
of subs. (11-
25)

(27) Subsections (11) to (25) do not apply to a by-law passed pursuant to an order of the Municipal Board made under subsection (10) or (26).

Where
provincial
interest
adversely
affected

(28) Where an appeal has been filed under subsection (16), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the by-law, may so advise the Municipal Board in writing not later than ten days before the day fixed by the Board for the hearing of the appeal and the Minister shall identify the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected.

Procedure

(29) Where the Municipal Board receives notice from the Minister under subsection (28), the Board shall not make an order under subsection (26) in respect of the part or parts of the by-law identified in the notice but shall, following the hearing of the appeal, make a report to the Lieutenant Governor in Council setting out its findings and recommendations in respect of such part or parts and shall send a copy of the report to the Minister, to each party to the appeal and to any person who in writing requests a copy of the report.

Disposition
by L. G. in C.

(30) After considering the report of the Municipal Board, the Lieutenant Governor in Council shall make a final disposition of the part or parts of the by-law and in doing so may direct the council of the municipality to repeal or amend the by-law and subsections (10) to (25) do not apply to a by-law passed pursuant to any such direction of the Lieutenant Governor in Council.

When by-law
deemed to
have come
into force

(31) Where one or more appeals have been filed under subsection (16), the by-law does not come into force until all of such appeals have been finally disposed of whereupon the by-law, except for such parts thereof as are repealed or amended in accordance with the direction of the Municipal Board or of the Lieutenant Governor in Council as mentioned in subsections (26) and (30), shall be deemed to have come into force on the day it was passed.

Holding
provision
by-law

35.—(1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding prefix "H" preceding any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding prefix "H" is removed by amendment to the by-law.

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the use of the holding prefix "H" mentioned in subsection (1). Condition

(3) Where an application to the council for an amendment to the by-law to remove the holding prefix "H" is refused or the council refuses or neglects to make a decision thereon within thirty days after receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order. Appeal to
O.M.B.

(4) Subsections 34 (10) to (25) do not apply to an amending by-law passed by the council to remove the holding prefix "H", but the council shall, in the manner and to the persons and agencies and containing the information prescribed, give notice of its intention to pass the amending by-law. Application
of s. 34 (10-25)

36.—(1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law. Increased
density, etc.,
provision
by-law

(2) A by-law may not be passed containing the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development. Condition

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters. Agreements

(4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. Registration
of agreement

R.S.O. 1980,
cc. 445, 230

37.—(1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or Interim
control
by-law

structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law.

Extension of
period by-law
in effect

(2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law.

Notice of
passing of
by-law

(3) No notice or hearing is required prior to the passing of a by-law under subsection (1) or (2) but the clerk of the municipality shall, in the manner and to the persons and agencies and containing the information prescribed, give notice of a by-law passed under subsection (1) or (2) within thirty days of the passing thereof.

Appeal to
O.M.B.

(4) Any person or agency to whom notice of a by-law was given under subsection (3) may, within sixty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Record

(5) Where a notice of appeal is filed under subsection (4), the clerk of the municipality shall compile a record which shall consist of a copy of the by-law certified by him and an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsection (3) have been complied with and thereafter the provisions of subsections 34 (19) to (30) apply with necessary modifications.

When prior
zoning by-law
again has
effect

(6) Where the period of time during which an interim control by-law is in effect has expired and the council has not passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, or where an interim control by-law is repealed or the extent of the area covered thereby is reduced, the provisions of any by-law passed under section 34 that applied immediately prior to the coming into force of the interim control by-law again come into force and have effect in respect of all lands, buildings or structures formerly subject to the interim control by-law.

Prohibition

(7) Where an interim control by-law ceases to be in effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied.

Application
of s. 34 (8)

(8) The provisions of subsection 34 (8) apply with necessary modifications to a by-law passed under subsection (1) or (2).

38.—(1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law. Temporary use provisions

(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and prescribe the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law. Area and time in effect

(3) Despite subsection (2), the council may grant further periods of not more than three years each during which the temporary use is authorized. Extension

(4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3), clause 34 (8) (a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized. Non-application of s. 34 (8) (a)

39.—(1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. Agreement exempting owner from requirement to provide parking

(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. Payment of money

(3) All moneys received by a municipality under an agreement entered into under this section shall be paid into a special account, and the moneys in such special account shall be applied for the same purposes as a reserve fund established under paragraph 55 of section 208 of the *Municipal Act* may be applied, and the moneys in such special account may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor of the municipality in his annual report shall report on the activities and position of the account. Special account

R.S.O. 1980,
cc. 302, 512

(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies, and when so registered, any moneys payable to the municipality under the agreement that have become due for payment shall be deemed to be taxes due upon the land under Registration of agreement

R.S.O. 1980,
c. 302

section 369 of the *Municipal Act* and may be collected in the same manner as municipal taxes.

Certificate

(5) When all moneys payable to the municipality under an agreement registered under subsection (4) have been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registerable in the proper land registry office, certifying that the moneys have been paid or that the agreement has been terminated.

Signs

40.—(1) By-laws may be passed by the councils of local municipalities for prohibiting or regulating signs and other advertising devices or any class or classes thereof and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this subsection may provide that a sign or other advertising device that was lawfully erected or displayed on the day the by-law comes into force but that does not comply with the by-law, shall be,

(a) made to comply with the by-law; or

(b) removed by the owner thereof or by the owner of the land on which it is situate,

within such period of time as is specified in the by-law, which period shall be not less than five years from the day the by-law comes into force.

Temporary
signs

(2) A by-law passed under subsection (1) may specify a time period during which signs or other advertising devices in a defined class that are erected or located after the passing of the by-law may stand or be displayed in the municipality and may require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

Production
of plans

(3) A by-law passed under subsection (1) may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

(4) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration so as to require a permit. Change in message

(5) A by-law passed under subsection (1) may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who, Pulling down, etc., signs illegally erected

(a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or

(b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies.

41.—(1) In this section, “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in clause (a) of paragraph 95 of section 210 of the *Municipal Act* or of sites for the location of three or more mobile homes as defined in clause 46 (1) (a) of this Act. Interpretation

R.S.O. 1980,
c. 302

(2) Where there is an official plan in effect in a local municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council. Establishment of site plan control area

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34. Designation of site plan control area

(4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (10), the Municipal Board has approved one or both, as the council may determine, of the following: Approval of plans or drawings

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (7) (a).
2. Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing less than twenty-five dwelling units, which drawings are sufficient to display,
 - (a) the massing and conceptual design of the proposed building;
 - (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and
 - (c) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause (c), the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

Drawings for residential buildings

(5) Despite the exception provided in paragraph 2 of subsection (4), the council of the municipality may require the drawings mentioned therein for a building to be used for residential purposes containing less than twenty-five dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area wherein such drawings may be required.

Proviso

(6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

Conditions to approval of plans

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widenings of highways that abut on the land.
 2. Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs. R.S.O. 1980,
c. 421
 3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
 4. Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access.
 5. Facilities for the lighting, including floodlighting, of the land or of any building structures thereon.
 6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
 7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
 8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land.
 9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
- (b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;
- (c) enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all

of the facilities, works or matters mentioned in clause (a) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4).

Registration
of agreements

(8) Any agreement entered into under clause (7) (c) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

R.S.O. 1980,
cc. 445, 230

Application of
R.S.O. 1980,
c. 302, s. 325

(9) Section 325 of the *Municipal Act* applies to any requirements made under clauses (7) (a) and (b) and to any requirements made under an agreement entered into under clause (7) (c).

Appeal to
O.M.B.

(10) Where the municipality fails to approve the plans or drawings referred to in subsection (4) within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection (7) or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Classes of
development,
delegation

(11) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law,

- (a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5); and
- (b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a).

Proviso

(12) Section 35a of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as it existed on the 21st day of June, 1979, shall be deemed to continue in force in respect of any by-law passed under that section on or before that day.

(13) Every agreement entered into by a municipality after the 16th day of December, 1973 and before the 22nd day of June, 1979, to the extent that the agreement deals with facilities and matters mentioned in subsection 35a (2) of *The Planning Act* as it existed on the 21st day of June, 1979, is hereby declared to be valid and binding.

Certain agreements declared valid and binding R.S.O. 1970, c. 349

42.—(1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land be conveyed to the municipality for park or other public recreational purposes.

Conveyance of land for park purposes

(2) For the purposes of subsection (3), “dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.

Interpretation

(3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law.

Alternative requirement

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement.

Official plan requirement

(5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time.

Use and sale of land

(6) The council of a municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of such conveyance and for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or, where more than one building permit is required for the development, as of the day before the day of the issuance of the first permit, and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board

Cash payment in lieu of conveyance

- R.S.O. 1980,
c. 148
- Application
of s. 51 (12)
- Where
account taken
of previous
conveyances
or payments
- Application
to O.M.B.
- Application
of s. 34 (11-31)
- R.S.C. 1970,
c. W-8
- Effect of
amendment
that conforms
with subs. (1)
- Establishment
of committee
of adjustment
- to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the *Expropriations Act*, determine the value of the land.
- (7) The provisions of subsection 51 (12) apply with necessary modifications to all moneys received under subsection (5) or (6).
- (8) Where land has been conveyed to a municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the municipality pursuant to a condition imposed under this section or under section 51 or section 53 or under a predecessor of any of such sections, the conveyance or payment, as the case may be, shall be included in determining the amount of land or payment of money in lieu thereof that may subsequently be required under this section on the development, further development or redevelopment of the lands or part thereof in respect of which the original conveyance or payment was received.
- (9) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money in lieu thereof that may subsequently be required, as mentioned in subsection (8), either party may apply to the Municipal Board and the Board shall make a final determination in the matter.
- 43.**—(1) Subsections 34 (11) to (31) do not apply to a by-law that amends a by-law only to express a word, term or measurement in the by-law in a unit of measurement set out in Schedule I of the *Weights and Measures Act* (Canada) in accordance with the definitions set out in Schedule II of that Act and that,
- (a) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or
- (b) does not vary by more than 5 per cent any measurement so expressed.
- (2) Any land, building or structure that otherwise conforms with a by-law passed under section 34 or a predecessor thereof or an order made by the Minister under section 47 or a predecessor thereof does not cease to conform with the by-law or order by reason only of an amendment to the by-law or order that conforms with subsection (1).
- 44.**—(1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable.

(2) Where a by-law is passed under subsection (1), a certified copy of the by-law shall be sent to the Minister by registered mail by the clerk of the municipality within thirty days of the passing thereof.

Copy of
by-law to
Minister

(3) The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council shall be appointed annually.

Term of
office

(4) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term.

Idem

(5) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum.

Quorum

(6) Subject to subsection (5), a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

Vacancy not
to impair
powers

(7) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member to act as acting chairman.

Chairman

(8) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the moneys appropriated for the purpose.

Secretary-
treasurer,
employees

(9) The members of the committee shall be paid such compensation as the council may provide.

Remuner-
ation

(10) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

Filing of
documents, etc.

R.S.O. 1980,
c. 302

(11) In addition to complying with the requirements of this Act, the committee shall comply with such rules of procedure as are prescribed.

Rules of
procedure

45.—(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any

Powers of
committee;
general

by-law that is passed under section 34, 37 or 40, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

special

(2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, provided that the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

(b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

Power of
committee to
grant minor
variances

(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality that implements an official plan, or from such

by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered the provisions of subsection (1) apply with necessary modifications.

(4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer. Time for hearing

(5) The committee, before hearing an application, shall in the manner and to the persons and agencies and containing the information prescribed give notice of the application. Notice of hearing

(6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision. Hearing

(7) The chairman, or in his absence the acting chairman, may administer oaths. Oaths

(8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. Decision

(9) Any authority or permission granted by the committee under subsections (1), (2) and (3) may be for such time and subject to such terms and conditions as the committee considers advisable and as are set out in the decision. Conditions in decision

(10) The secretary-treasurer shall not later than ten days from the making of the decision send by mail one copy of the decision, certified by him, Notice of decision

(a) to the Minister, if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;

(b) to the applicant; and

(c) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

- Additional material (11) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection (10), he shall also send to the Minister such other information and material as may be prescribed.
- Appeal to O.M.B. (12) The applicant, the Minister or any other person who has an interest in the matter may within thirty days of the making of the decision 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 a notice of appeal setting out the objection to the decision and the reasons in support of the objection 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.
- R.S.O. 1980, c. 347
- Idem (13) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection (12) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) 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 Board.
- Where no appeal (14) If within such thirty 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.
- Where appeals withdrawn (15) Where all appeals to the Municipal Board are withdrawn by the persons who gave notice of appeal, the decision of the committee is final and binding and the secretary of the Board shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.
- Hearing (16) On an appeal to the Municipal Board, the Board shall, except as provided in subsections (15) and (17), 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 Board may determine.
- Dismissal of appeal by O.M.B. (17) The Municipal Board may, where it is of the opinion that the objection to the decision set out in the notice of appeal is insufficient, dismiss the appeal without holding a hearing, and where the Board does so it shall give written reasons therefor to the appellant.

(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application. Powers of O.M.B.

(19) When the Municipal Board makes an order on an appeal, the secretary of the Board shall send a copy thereof to the applicant, the appelland and the secretary-treasurer of the committee. Notice of decision

(20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality. Idem

46.—(1) In this section, Interpretation

- (a) “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;
- (b) “parcel of land” means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 50 (3) (b) or clause 50 (5) (a).

(2) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause 47 (1) (a), or a permit issued under section 13 of the *Public Lands Act*, no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land as defined in clause (1) (b) of this section, and in no case except as otherwise so authorized shall any person erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land. One mobile home per parcel of land R.S.O. 1980, c. 413

(3) This section does not apply to prevent the continued use in the same location of any mobile home that, Saving

- (a) was erected or located and in use prior to the 1st day of June, 1977; or
- (b) was erected or located in accordance with a building permit issued prior to the 1st day of June, 1977.

47.—(1) The Minister may by order, Power of Minister re zoning and subdivision control

- (a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, but subsections (11) to (31) of that section do not apply to the exercise of such powers; and

(b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 50 (4).

Power of
Minister to
allow minor
variances

(2) Where an order has been made under clause (1) (a), the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 45 (1) and (2) in respect of a by-law passed under section 34, but the provisions of subsections 45 (4) to (8) and (10) to (20) do not apply to the exercise by the Minister of such powers.

Order prevails
over by-law
in event
of conflict

(3) In the event of a conflict between an order made under clause (1) (a) and a by-law that is in effect under section 34 or 37, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect.

Where order
deemed
by-law of
municipality

(4) Where the Minister so provides in the order, an order made under clause (1) (a) in respect of land situate in a municipality the council of which has the powers conferred by section 34 shall be deemed for all purposes except the purposes of section 24 to be a by-law passed by the council of the municipality in which the land is situate and to be in force in the municipality.

Notice

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections (8), (9) and (10).

Idem

(6) The Minister shall cause a duplicate or certified copy of an order made under clause (1) (a),

(a) where the land affected is situate in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more local municipalities, in the office of the clerk of each of such municipalities and the provisions of subsection 78 (2) of the *Municipal Act* apply with necessary modifications; and

(b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production.

R.S.O. 1980,
c. 302

Registration

(7) The Minister shall cause a certified copy or duplicate of an order made under clause (1) (b) to be registered in the proper land registry office.

(8) The Minister may, on his own initiative or at the request of any person, by order, amend or revoke in whole or in part any order made under subsection (1). Revocation or amendment

(9) Except as provided in subsection (10), the Minister before amending or revoking in whole or in part an order made under subsection (1) shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof. Notice

(10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection (1), the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part. Hearing by O.M.B.

(11) Despite subsection (10), where the Minister is of the opinion that a hearing by the Municipal Board would serve no useful purpose or that the request is made only for the purpose of delay, he may refuse a request. Refusal of request by Minister

(12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board. Notice of hearing

(13) At the conclusion of the hearing, the Municipal Board shall make a report to the Minister in which shall be set out the Board's findings and recommendations in respect of the application and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter. Report to Minister

(14) After considering the report of the Municipal Board, the Minister may either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the decision of the Minister is final. Power of Minister

(15) An order of the Minister made under clause (1) (b) has the same effect as a by-law passed under subsection 50 (4). Effect of land use order

48. Despite the provisions of any other general or special Act, a licence, permit, approval or permission shall not be issued or granted nor any utility or service provided by a public utilities commission or other public or Crown agency in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 46 or of an order made under section 47. Where licence, etc., not to issue

Interpre-
tation

49.—(1) In this section, “officer” means an officer who has been assigned the responsibility of enforcing section 46, orders of the Minister made under clause 47 (1) (a) or zoning by-laws passed under section 34.

Entry and
inspection

(2) Subject to subsection (3), where an officer believes on reasonable grounds that section 46, an order of the Minister made under clause 47 (1) (a) or a by-law passed under section 34, 37 or 40 is being contravened, the officer or any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property on or in respect of which he believes the contravention is occurring.

Where warrant
under
R.S.O. 1980,
c. 400, s. 142,
required

(3) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

PART VI

SUBDIVISION OF LAND

Interpre-
tation

50.—(1) In this section and in section 53 “consent” means,

- (a) where the land is situate within a regional municipality or is situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford, a consent given by the regional council, the Metropolitan Council, the District Council or the County Council, as the case may be;
- (b) where the land is situate within a town, village or township that forms part of a county for municipal purposes, a consent given by the council of the county;
- (c) where the land is situate within a local municipality that is within a county, but that does not form part of the county for municipal purposes, a consent given by the council of the local municipality;
- (d) where the land is situate within a city that is within a territorial district, other than a city within a regional or district municipality, a consent given by the council of the city; or

- (e) where the land is situate in a territorial district but is not within a regional or district municipality or is not within a city, a consent given by the Minister,

and a reference herein and in section 53 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4 and 54.

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only. ^{Proviso}

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless, ^{Subdivision control}

(a) the land is described in accordance with and is within a registered plan of subdivision;

(b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with;

(c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;

(d) the land or any use of or right therein is being acquired for the construction of a transmission line as defined in the *Ontario Energy Board Act* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; or ^{R.S.O. 1980, c. 332}

(e) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

Designation
of plans of
subdivision
not deemed
registered

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3).

Part-lot
control

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed, or transfer, or grant, assign or exercise a power of appointment in respect of a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-years or more unless,

- (a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with;
- (b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;
- (c) the land or any use of or right therein is being acquired for the construction of a transmission line or utility line, both as defined in the *Ontario Energy Board Act*, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;
- (d) the land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by expropriation; or
- (e) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

R.S.O. 1980,
c. 332

(6) Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection (5) ceases to apply to such land, but the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection (23) have been complied with, subsection (5) thereupon applies to the lands affected by the repeal or amendment.

Designation of lands not subject to part-lot control

(7) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance.

Exception

(8) Nothing in subsections (3) and (5) prohibits the entering into of an agreement that has the effect of granting the use of or right in a part of a building or structure for any period of years.

Part of building or structure

(9) This section does not apply to an agreement entered into under section 2 of the *Drainage Act*.

Agreement under R.S.O. 1980, c. 126, s. 2

(10) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer.

Application to ARDA

(11) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 53, subsections (3) and (5) of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.

Exception to application of s. 50 (3, 5)

(12) Where the council or the Minister stipulates in accordance with subsection (11), the certificate provided for under subsection 53 (20) shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation.

Reference to stipulation

(13) Where land is within a registered plan of subdivision or within a registered description under the *Condominium Act* or where land is conveyed with a consent given under section 53 or a predecessor thereof, any contravention of this section or a pre-

Effect of contravention of s. 50, etc., before plan registered, etc. R.S.O. 1980, c. 84

decessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, but this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the 15th day of December, 1978.

Simultaneous conveyances, etc., of abutting lands

(14) Where a person conveys land or grants, assigns or exercises a power of appointment in respect of land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment in respect of, land abutting the land that is being conveyed or otherwise dealt with.

Partial discharges, etc., effect of

(15) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation.

Saving

(16) Subsection (15) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

- (a) is the same land in respect of which a consent to convey has previously been given;
- (b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4); or
- (c) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario, Ontario Hydro or by any municipality.

(17) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

Foreclosure or exercise of power of sale, when approval of Minister required

- (a) the whole of one or more lots or blocks within one or more registered plans of subdivision; or
- (b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge.

(18) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the abutting land.

Release of interest by joint tenant or tenant in common

(19) No order made under the *Partition Act* for the partition of land shall have any effect in law unless,

Order made under R.S.O. 1980, c. 369

- (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or
- (b) a consent is given to the order.

(20) Where a provision is contained in a will for the division of land between two or more persons such provision shall have no effect in law unless,

Division of land by will

- (a) irrespective of the provision in the will, each part of the land described in the will could be conveyed without contravening this section; or
- (b) a consent is given to the provision in the will.

(21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with.

Conveyance, etc., contrary to section not to create or convey interest in land

- Copy of by-law to be lodged with Minister (22) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the Minister.
- When by-law effective (23) A by-law passed under subsection (4) is not effective until the requirements of subsection (24) have been complied with.
- Registration of by-law (24) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office.
- Notice (25) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.
- Hearing by council (26) The council shall hear in person or by his agent any person to whom a notice was sent under subsection (25), who within twenty days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law.
- Application for approval of subdivision plan **51.**—(1) An owner of land or his agent duly authorized in writing may apply to the Minister for approval of a plan of subdivision of his land or part thereof.
- What draft plan to indicate (2) An applicant under subsection (1) shall provide as many copies as may be required by the Minister of a draft plan of the proposed subdivision drawn to scale and showing,
- (a) the boundaries of the land to be subdivided, certified by an Ontario land surveyor;
 - (b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
 - (c) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which he has an interest, every subdivision adjacent to the proposed subdivision and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;
 - (d) the purpose for which the lots are to be used;
 - (e) the existing uses of all adjoining lands;

- (f) the approximate dimensions and layout of the proposed lots;
- (g) natural and artificial features such as buildings or other structures or installations, railways, highways, water-courses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land;
- (k) the municipal services available or to be available to the land proposed to be subdivided; and
- (l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided.

(3) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the proposed subdivision. Minister
may confer

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to the following, What matters
to be regarded

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan generally conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy thereof;
- (f) the dimensions and shape of the lots;

- (g) 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;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and
- (l) the physical layout of the plan having regard to energy conservation.

Dedication
of land for
park and
highway
purposes

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are reasonable, having regard to the nature of the development proposed for the subdivision and, in particular, but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

- (a) that land to an amount to be determined by the Minister but not exceeding in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall be dedicated for park or other public recreational purposes;
- (b) that such highways shall be dedicated as the Minister considers necessary;
- (c) when the subdivision abuts on an existing highway that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister considers necessary; and
- (d) that the owner of the land enter into one or more agreements with a municipality, or where the land is not in a municipality, with the Minister, dealing with such matters as the Minister may consider necessary, including the provision of municipal services.

Subdivision
agreements

(6) Every municipality and the Minister may enter into agreements imposed as a condition to the approval of a plan of subdivision and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of the

Registry Act and the *Land Titles Act*, any and all subsequent owners of the land. R.S.O. 1980, cc. 445, 230

(7) Where the Minister has imposed a condition under clause (5) (a) requiring land to be conveyed to the municipality and where the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes, the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality. Alternative requirement

(8) Where the Minister has imposed a condition under clause (5) (a) requiring land to be conveyed to the municipality, the municipality may, in lieu of accepting such conveyance, require the payment of money by the owner of the land, Cash payment in lieu of conveyance

(a) to the value of the land otherwise required to be conveyed; or

(b) where the municipality would be entitled to require a conveyance under subsection (7), to the value of the land that would otherwise be required to be so conveyed.

(9) For the purpose of determining the amount of any payment required under subsection (8), the value of the land shall be determined as of the day before the day of the draft approval of the plan and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the *Expropriations Act*, determine the value of the land. Valuation of land

R.S.O. 1980, c. 148

(10) Land conveyed to a municipality pursuant to a condition imposed under subsection (5) shall be used for park or other public recreational purposes but may be sold at any time. Use and sale of land

(11) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park or other public recreational purposes and may pay into the fund provided for in subsection (12) the sum so included in the estimates, and any person may pay any sum into the same fund. Fund for acquisition of park lands

(12) All moneys received by the municipality under subsections (8) and (11) and all moneys received on the sale of land under subsection (10), less any amount expended by the municipality out of its general funds in respect of such land, shall be Special account

paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recreational purposes, including the acquisition of machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account.

R.S.O. 1980,
c. 512

Giving or
refusing of
approval by
Minister

(13) The Minister may, subject to subsections (14) and (15), give or refuse to give his approval to a draft plan of subdivision.

Reasons for
refusal

(14) Where the Minister proposes to refuse to give his approval to a draft plan of subdivision, the Minister shall send notice to the applicant together with written reasons as to why he proposes to refuse his approval and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the draft plan to the Municipal Board, the approval of the Minister shall be deemed to have been refused.

Referral of
plan to O.M.B.

(15) At any time before the Minister has given or has refused to give his approval to a draft plan of subdivision, the Minister may, and upon application therefor shall, refer the draft plan of subdivision to the Municipal Board unless, in his opinion, referral to the Board would serve no useful purpose or unless, in his opinion, the request is made only for the purpose of delay and where the draft plan is referred to the Board the Board shall hear and determine the matter.

Reasons

(16) Where an application is made under subsection (15), the application shall be accompanied by written reasons in support thereof.

Reference of
conditions

(17) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions, imposed or to be imposed, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it.

Withdrawal of
approval

(18) The Minister may, in his discretion, withdraw his approval to a draft plan of subdivision or change the conditions

of such approval at any time prior to his approval of a final plan for registration.

(19) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with the *Surveys Act* and the *Registry Act* or the *Surveys Act* and the *Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor.

When draft plan approved

R.S.O. 1980, cc. 493, 445, 230

(20) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

Approval of plan by Minister

(21) When a final plan for registration is approved under subsection (20) and is not registered within thirty days of the date of approval, the Minister may withdraw his approval.

Withdrawal of approval of plan for registration

(22) In addition to any requirement under the *Registry Act* or the *Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the land registrar a duplicate, or when required by the Minister two duplicates, of the plan of a type approved by the Minister, and the land registrar shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

Duplicates to be deposited and sent to Minister
R.S.O. 1980, cc. 445, 230

(23) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act.

Saving

52.—(1) No person shall offer for sale, agree to sell or sell land by a description in accordance with an unregistered plan of subdivision, other than a plan of subdivision in respect of which draft approval has been given under section 51.

Sale of lands in accordance with unregistered plan prohibited

(2) In subsection (1), “unregistered plan of subdivision” does not include a reference plan of survey under section 149 of the *Land Titles Act* that complies with the regulations under that Act or a plan deposited under Part II of the *Registry Act* in accordance with the regulations under that Act.

Interpretation

53.—(1) An owner of land or his agent duly authorized in writing may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to subsections (2) to (19) of this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.

Consent

Matters to be regarded

(2) A council or the Minister, as the case may be, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 51 (4) and has the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsection 51 (5), and subsections 51 (5), (7), (8), (9), (10) and (12) apply with necessary modifications.

Conveyance of land for park purposes

(3) Where, on the giving of a consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the giving of the consent.

Conferring with agencies, etc.

(4) A council, in determining whether a consent is to be given, shall confer with such agencies or persons as are prescribed.

Notice of decision

(5) Where a decision is made by a council to give a consent, written notice of the decision, setting out the conditions, if any, imposed to the giving of the consent, shall be sent, not later than ten days from the making of the decision, to the applicant, to every agency or person conferred with under subsection (4) that in writing requested to be given notice of the decision, to any other person who in writing requested to be given notice of the decision and to the Minister, if the Minister has notified the council by registered mail that he wishes to receive a copy of all decisions made to give a consent.

Idem

(6) Where a decision is made by a council to refuse to give a consent, written notice of the decision shall be sent not later than ten days from the making of the decision to the applicant and to the agencies and persons mentioned in subsection (5), other than the Minister, together with written reasons for the decision.

Appeal to O.M.B.

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent may within thirty days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Board under the *Ontario Municipal Board Act*.

R.S.O. 1980, c. 347

Idem

(8) The clerk of the municipality upon receipt of a notice of appeal filed under subsection (7) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (7) to the Municipal Board by registered mail together with all papers and documents filed with the council relating to the

matter appealed from and such other documents and papers as may be required by the Board.

(9) The Minister in determining whether a consent is to be given shall confer with such officials, authorities, corporations, bodies or persons as the Minister considers may have an interest in the application and thereafter may, subject to subsections (10) to (18), give, or refuse to give, the consent. Minister may confer with officials, etc.

(10) Where the Minister proposes to impose conditions to the giving of a consent, the Minister shall give written notice to the applicant specifying the conditions, and the Minister may change the conditions at any time prior to the giving of the consent. Conditions

(11) Where the Minister proposes to refuse to give a consent, the Minister shall send notice to the applicant together with written reasons as to why it is proposed to refuse to give the consent and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the application for consent to the Municipal Board, the consent shall be deemed to have been refused. Reasons for refusal to give consent

(12) At any time before written notice is given to an applicant under subsection (10) specifying conditions, the Minister may, and upon application therefor accompanied by written reasons in support thereof shall, refer the application for consent to the Municipal Board unless, in the opinion of the Minister, referral to the Board would serve no useful purpose or unless, in the opinion of the Minister, the request is made only for the purpose of delay, but in no event may an application for consent be referred to the Board after the Minister has given or refused to give the consent. Referral to O.M.B.

(13) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions imposed or to be imposed by the Minister, he or it, at any time before the consent is given, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister. Idem

(14) On an appeal to the Municipal Board under subsection (7) or where an application for a consent is referred to the Board under subsection (12) or where conditions are referred to the Board under subsection (13), the Board shall hold a hearing of which notice shall be given to such agencies or persons and in such manner as the Board may determine. Hearing by O.M.B.

Dismissal
of appeal
without
hearing

(15) Despite subsection (14), the Municipal Board may, where it is of the opinion that the reasons in support of an appeal under subsection (7) are insufficient, dismiss the appeal without holding a hearing and where the Board does so it shall give written reasons therefor to the appellant, to the applicant where he is not the appellant, and to the council that made the decision from which the appeal was made.

Powers
of O.M.B.

(16) Following the hearing on an appeal under subsection (7) or a referral under subsection (12), the Municipal Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on a referral of conditions under subsection (13) the Board shall determine the question as to the condition or conditions referred to it.

Where consent
to be given

(17) Where under subsection (16) the decision of the Municipal Board is that a consent be given, the council or the Minister, as the case may be, shall thereupon give the consent, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

Where
consent
may be
given

(18) Where the decision of the council or the Minister on an application is to give a consent and there has been no appeal under subsection (7) and no referral under subsection (12), the consent may be given, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

Where
conditions
not
fulfilled

(19) Where conditions have been imposed and the applicant has not, within a period of one year from the giving of the notice mentioned in subsection (5) or (10), as the case may be, fulfilled the conditions, the application for consent shall thereupon be deemed to be refused.

Certificate
that consent
given

(20) When a consent has been given under this section, the clerk of the municipality, the council of which gave the consent or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, despite any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent but, where the authority to give consents has been delegated under section 54 to a land division committee or to a committee of adjustment, the certificate shall be given by the secretary-treasurer of the appropriate committee.

(21) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (20) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister, as the case may be, in giving the consent may provide for an earlier lapsing of the consent.

When consent lapses

54.—(1) The council of a county or of a regional, metropolitan or district municipality, with the approval of the Minister, may, by by-law, delegate to the council of a constituent local or area municipality, as the case may be, the authority for the giving of consents under section 53 in respect of land situate in the local or area municipality.

Delegation of authority to give consents to constituent municipality

(2) Where authority is delegated to a council under subsection (1), such council may, in turn, by by-law, delegate the authority or any part of such authority, to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

Further delegation

(3) The Minister may, at any time, revoke the approval given under subsection (1) by giving written notice thereof to the clerk of the council that passed the delegating by-law and to the clerk of the council that received the delegated authority and when such notice is given the delegation is thereupon terminated except that all applications for consent made prior to the giving of the notice shall continue to be dealt with as if the delegation had not been terminated.

Withdrawal of delegated powers

(4) Except as delegated under subsection (1), the authority or any part of such authority of a council of a county or of a council of a regional, metropolitan or district municipality may be delegated by the council to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee.

Delegation to committee of council, etc.

(5) The council of a city that is not situate within a regional municipality or that is not situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford and the council of any other local municipality that is within a county but that does not form part of the county for municipal purposes may, by by-law, delegate the authority of the council under section 53 or any part of such authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

Idem

(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, the provisions of subsections 53 (2) to (21) apply with necessary

Committee of adjustment

modifications and the provisions of subsections 45 (4) to (20) do not apply, in the exercise of that authority.

Conditions,
withdrawal

(7) A delegation of authority made by a council under this section may be subject to such conditions as the council by by-law provides and the council may by by-law withdraw the delegation of authority provided however, where authority delegated under subsection (1) is withdrawn, all applications for consent made prior to the withdrawal shall continue to be dealt with as if the delegation had not been withdrawn.

District land
division
committee,
delegation

55.—(1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 53 in respect of such lands situate in a territorial district as are defined in the order.

Conditions
and
withdrawal
of delegation

(2) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

Application
of s. 44

(3) Where the Minister has delegated his authority to a district land division committee under subsection (1), the provisions of subsections 44 (5), (6), (7), (8), (10) and (11) apply with necessary modifications.

Agreements

(4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 51 (6) apply with necessary modifications to any such agreement.

Remuner-
ation

(5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them.

Application
of fees

(6) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be paid into the Consolidated Revenue Fund.

Land
division
committee

56.—(1) The council of a county or of a regional, metropolitan or district municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable.

Application
of s. 44 (2-11)

(2) The provisions of subsections 44 (2) to (11) apply, with necessary modifications, where a land division committee is constituted under subsection (1) of this section.

57.—(1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister.

Effect of
contravention
of
R.S.O. 1970,
c. 349, s. 29,
etc., on
conveyances
made prior
to March
19th, 1973

(2) No order shall be made by the Minister under subsection (1) in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has by by-law requested the Minister to make such order, which such by-law the council is hereby empowered to pass.

Proviso

(3) A council may, as a condition to the passage of a by-law under subsection (2), impose such conditions in respect of any land described in the by-law as it considers appropriate.

Conditions

(4) Nothing in this section derogates from the power a council or the Minister has to grant consents referred to in section 53.

Proviso

PART VII

GENERAL

58. The provisions of the *Municipal Act* apply to the acquisition of land under this Act.

Application of
R.S.O. 1980,
c. 302,
to acquisition
of land

59. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held.

Power to
clear, grade,
etc., lands
acquired

60. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality.

Exchange
of lands

61. Despite any general or special Act, the *Statutory Powers Procedure Act* does not apply to any proceedings under section 17, 28 or 34 in or before the council of a municipality or a committee of council or, under section 19, in or before a planning board.

Where
R.S.O. 1980,
c. 484
not to apply

- Application of Act to Ontario Hydro **62.**—(1) Except as provided in sections 3, 6 and 48 and sub-section (2) of this section, this Act does not affect Ontario Hydro.
- Idem (2) Land and buildings owned by Ontario Hydro and used for executive, administrative or retail purposes or held under lease or licence from Ontario Hydro and any undertaking of Ontario Hydro, unless approved or exempted under the *Environmental Assessment Act*, are subject to this Act.
- R.S.O. 1980, c. 140
- Effect of approval or consent of O.M.B. **63.**—(1) Where a matter is referred to the Municipal Board under this Act, the approval or consent of the Board has the same force and effect as if it were the approval or consent of the Minister or the council of a municipality.
- Deemed compliance with Act (2) Where an approval or consent is given under this Act, the provisions of this Act leading to such approval or consent shall be deemed to have been complied with.
- Non-application of R.S.O. 1980, c. 347, s. 94 **64.** Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter referred or appealed to the Board under this Act.
- Resumption by Minister of matters referred to O.M.B. **65.** When under this Act the Minister has referred a matter to the Municipal Board, the matter may be taken back from the Board by the Minister at any time prior to a decision in respect thereof having been made by the Board, but where a matter has been referred to the Board pursuant to the request of any person, the matter shall not be taken back from the Board by the Minister except on the further request of such person and with the concurrence of all other persons, if any, who had requested that the matter be referred to the Board.
- Effect of approval or consent under delegated authority **66.** Where the Minister or the council of a municipality delegates under this Act the authority to give an approval or consent, an approval or consent given under the authority has the same force and effect as if it were the approval or consent of the Minister or the council as the case may be.
- Penalty **67.**—(1) Every person who contravenes section 41, 46 or 52 or who contravenes a by-law passed under section 34, 37 or 40 or an order made under section 47 is guilty of an offence and on conviction is liable,
- (a) on a first conviction to a fine of not more than \$20,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.

(2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed is, Corporation

(a) on a first conviction a fine of not more than \$50,000; and

(b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,

and not as provided in subsection (1).

(3) Where a conviction is entered under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. Order of prohibition

68.—(1) Despite section 57 of the *Assessment Act*, it is not an offence to disclose the information referred to therein to any person who declares that such information is required in the course of his planning duties. Saving
R.S.O. 1980,
c. 31, s. 57

(2) A person who wilfully discloses or permits to be disclosed the information referred to in subsection (1) to any other person not likewise entitled in the course of his duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. Offence

(3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration. Exception

69.—(1) Municipalities and planning boards in formulating and implementing planning policies shall comply with such standards for the development of municipalities as are prescribed. Development standards

(2) Before any standard as mentioned in subsection (1) is prescribed, the Minister shall confer with such municipal, provincial, federal or other officials and bodies or persons as the Minister considers have an interest in the proposed standard. Minister to confer with municipalities, etc.

70.—(1) The council of a municipality may by by-law prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by Tariff of fees

the council of the municipality in respect of the processing of each type of application provided for in the tariff.

Reduction
or waiver
of fees

(2) Notwithstanding that a tariff of fees is prescribed under subsection (1) the council of a municipality, a committee of adjustment or a land division committee in processing an application may reduce the amount of, or waive the requirement for the payment of a fee in respect of the application where the council or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

Payment
under protest:
appeal to
O.M.B.

(3) Any person who is required to pay a fee for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Municipal Board against the levying of the fee or the amount of the fee by giving written notice of appeal to the Municipal Board within thirty days of payment of the fee.

Hearing

(4) The Municipal Board shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Board determines.

Regulations

71. The Lieutenant Governor in Council may make regulations,

- (a) prescribing for the purposes of subsection 17 (2), section 19, subsection 28 (4), subsection 34 (11), subsection 35 (4), subsection 37 (3) or subsection 45 (5), the persons and agencies that are to be given notice, the manner in which notice is to be given and the information that must be contained therein;
- (b) providing for the charging of a fee on any application made in respect of a planning matter to a planning board that has had authority delegated to it by the Minister;
- (c) prescribing for the purposes of section 69, standards for the development of municipalities, which standards may vary according to population, geographic location or otherwise;
- (d) prescribing rules of procedure for committees of adjustment and land division committees constituted under sections 44, 55 and 56;
- (e) prescribing agencies or persons for the purposes of subsection 53 (4); and

(f) prescribing for the purposes of subsection 45 (11), the additional information and material required to be sent to the Minister.

72. In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. Conflict

73.—(1) Except as provided in subsection (2), every official plan that is in effect immediately before the day this Act comes into force shall remain in effect but may be amended or repealed in accordance with this Act. Official plans remain in effect

(2) Every official plan of a joint planning area that is in effect immediately before the day this Act comes into force shall be deemed to be repealed two years from that day, if not sooner repealed. Repeal of joint planning area official plans

(3) At any time during the two year period mentioned in subsection (2) the Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan. Amendment or repeal

74.—(1) Except as provided in subsection (3), on the day this Act comes into force all planning areas including joint planning areas and subsidiary planning areas, together with the planning boards thereof are dissolved. Planning areas and boards dissolved

(2) All the assets and liabilities of a planning board dissolved by this section are, in the case of a planning board of a planning area consisting of part or all of one municipality, assets and liabilities of such municipality and in the case of a planning board of a joint planning area, assets and liabilities of the municipalities that form part of the joint planning area and if such municipalities cannot agree as to the disposition of the assets and liabilities, the Municipal Board, upon the application of one or more of the municipalities, shall direct a final disposition thereof. Assets and liabilities

(3) Each planning area that immediately before the day this Act comes into force consists of the whole of two or more municipalities that are situate in a territorial district or consists of the whole of one or more municipalities and territory without municipal organization or consists solely of territory without municipal organization shall continue as a planning area under this Act without any change in name until altered or dissolved by the Minister. Planning areas that are continued

(4) Each planning board of a planning area mentioned in subsection (3) shall continue as a planning board under this Act Planning boards that are continued

without any change in name or constitution until the planning area is dissolved or the name or constitution of the planning board is changed by the Minister.

Members of
planning
boards
that remain
in office

(5) Persons who immediately before the day this Act comes into force are members of a planning board mentioned in subsection (4) shall remain in office until the expiry of the term of the council that appointed them and until their successors have been appointed under this Act.

R.S.O. 1980,
c. 379,
repealed

75. The *Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980, is repealed.

Interpre-
tation

76.—(1) In this section, “former Act” means the *Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980.

Matters, etc.,
continued
under
R.S.O. 1980,
c. 379

(2) Despite section 75, any matter or proceeding mentioned in subsection (3) that has been commenced under the former Act before the day this Act comes into force shall be continued and finally disposed of under the former Act.

When
matters, etc.,
deemed
commenced

(3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced, in the case of,

- (a) an official plan or an amendment thereto or a repeal thereof, on the day the by-law adopting the plan or adopting or proposing the amendment or repeal of the plan is passed;
- (b) a request under subsection 17 (3) of the former Act, on the day the request is made;
- (c) redevelopment under section 22 of the former Act, on the day the by-law designating the redevelopment area is passed;
- (d) subdivision of land under section 33 of the former Act, on the day the application is made under subsection (1) of that section;
- (e) a zoning by-law or an amendment thereto, on the day the by-law is passed;
- (f) an application under subsection 39 (23) of the former Act, on the day the application is made;
- (g) development in a site plan control area, on the day the application is made under subsection 40 (4) of the former Act;

- (h) an application made to a committee of adjustment, a land division committee or planning board for a planning area in a territorial district, on the day the application is made; and
- (i) an application to the Minister for a consent under section 29 of the former Act, on the day the application is made.

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

78. The short title of this Act is the *Planning Act, 1982*. Short title

An Act to revise the Planning Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

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

(Government Bill)

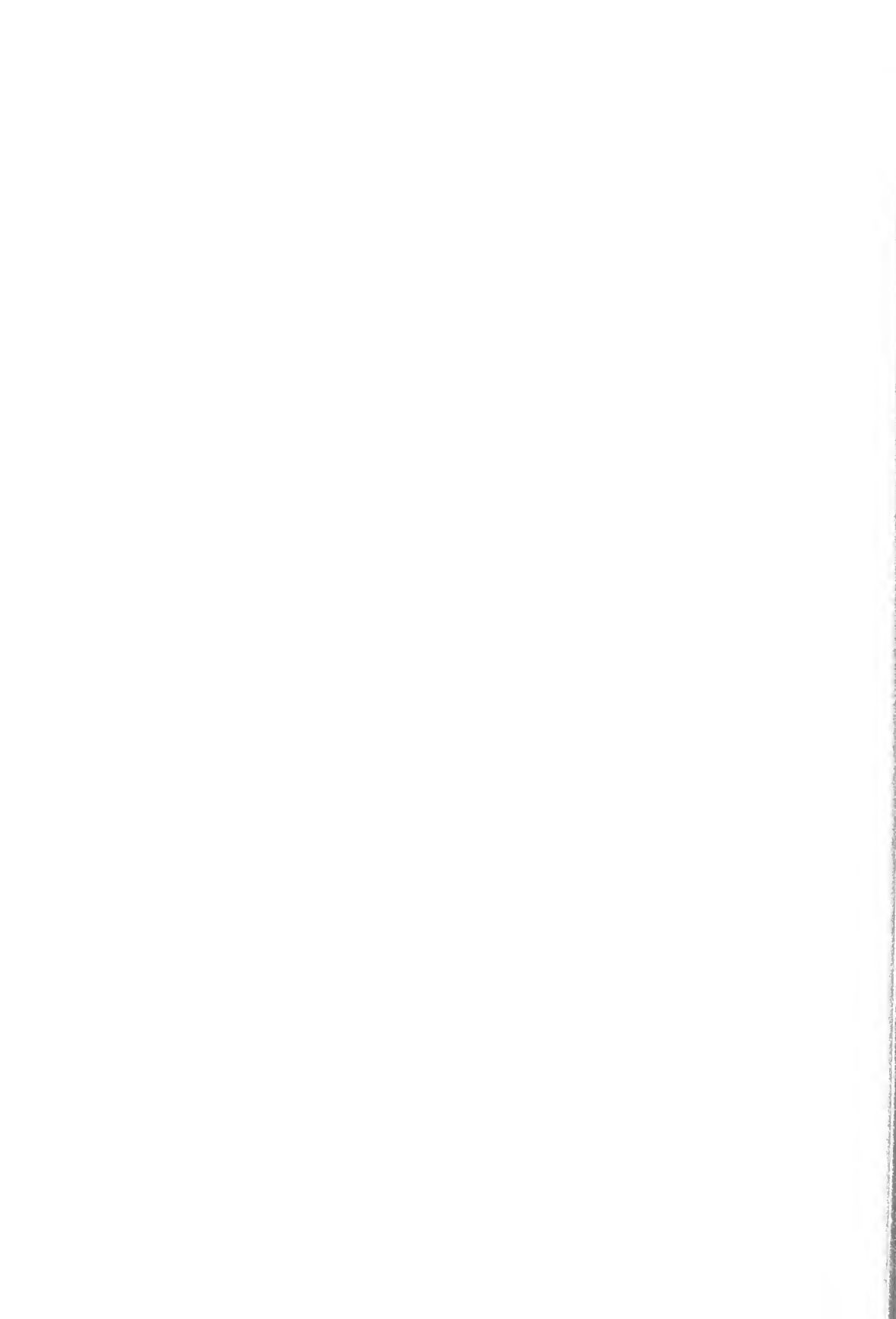
Bill 159

*(Chapter 1
Statutes of Ontario, 1983)*

An Act to revise the Planning Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	March 9th, 1982
<i>2nd Reading</i>	March 9th, 1982
<i>3rd Reading</i>	January 25th, 1983
<i>Royal Assent</i>	January 27th, 1983



Bill 159**1982****An Act to revise 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. In this Act,Interpre-
tation

- (a) “committee of adjustment” means a committee of adjustment constituted under section 43;
- (b) “land division committee” means a land division committee constituted under section 55;
- (c) “local board” means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;
- (d) “local municipality” means a city, town, village and township;
- (e) “Minister” means the Minister of Municipal Affairs and Housing;
- (f) “Municipal Board” means the Ontario Municipal Board;
- (g) “municipality” means a local municipality, a county and a regional, metropolitan or district municipality;
- (h) “official plan” means a document approved by the Minister, containing objectives and policies established primarily to provide guidance for the physical development of a municipality or a part thereof or an

area that is without municipal organization, while having regard to relevant social, economic and environmental matters;

- (i) "prescribed" means prescribed by the regulations;
- (j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality or a local board;
- (k) "regulations" means regulations made under this Act.

PART I

PROVINCIAL ADMINISTRATION

Responsi-
bility of
Minister

2. The Minister, in carrying out his responsibilities under this Act, will have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of the natural environment, including the agricultural resource base of the Province, and the management of natural resources;
- (b) the protection of features of significant natural, architectural, historical or archaeological interest;
- (c) the supply, efficient use and conservation of energy;
- (d) the provision of major communication, servicing and transportation facilities;
- (e) the equitable distribution of educational, health and other social facilities;
- (f) the co-ordination of planning activities of municipalities and other public bodies;
- (g) the resolution of planning conflicts involving municipalities and other public bodies;
- (h) the health and safety of the population; and
- (i) the protection of the financial and economic well-being of the Province and its municipalities.

Policy
statements

3.—(1) The Minister, or the Minister together with any other minister of the Crown, may from time to time issue pol-

icy statements that have been approved by the Lieutenant Governor in Council on matters relating to municipal planning that in the opinion of the Minister are of provincial interest.

(2) Before issuing a policy statement, the Minister shall confer with such municipal, provincial, federal or other officials and bodies or persons as the Minister considers have an interest in the proposed statement.

Minister to confer

(3) Where a policy statement is issued under subsection (1), the Minister shall cause it to be published in *The Ontario Gazette* and he shall give or cause to be given such further notice thereof, in such manner as he considers appropriate, to all members of the Assembly, to all municipalities and to such other agencies, organizations or persons as he considers have an interest in the statement.

Notice

(4) Each municipality that receives notice of a policy statement under subsection (3) shall in turn give notice of the statement to each local board of the municipality that it considers has an interest in the statement.

Idem

(5) In exercising any authority that affects any planning matter, the council of every municipality, every local board, every minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro, shall have regard to policy statements issued under subsection (1).

Regard to be had to policy statements

4.—(1) The Minister, on the request of the council of any municipality, may, by order, delegate to the council any of the Minister's authority under this Act other than the authority to approve the official plan or amendments thereto of the municipality of which it is the council, under section 50 of the *Condominium Act*, under subsection 298 (11) and subsection 306 (2) of the *Municipal Act*, under subsection 82 (3) of the *Registry Act* and under section 145 of the *Land Titles Act* and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Delegation of Minister's powers: to municipality

R.S.O. 1980, cc. 84, 302, 445, 230

(2) The Minister, on the request of the planning board of any planning area in a territorial district, may, by order, delegate to the planning board any of the Minister's authority under this Act, other than the authority to approve official plans and amendments thereto, and where the Minister has delegated any such authority the planning board has, in lieu of the Minister,

to planning board

all the powers and rights of the Minister in respect thereof and the planning board shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Conditions (3) A delegation made by the Minister under subsection (1) or (2) may be subject to such conditions as the Minister may by order provide.

Withdrawal of delegation of powers (4) The Minister may by order, accompanied by a written explanation therefor, withdraw any delegation made under subsection (1) or (2) and, without limiting the generality of the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation, and immediately following any such withdrawal the council or the planning board, as the case may be, shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation or the planning board that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council or the planning board prior to such withdrawal.

Further delegation of powers **5.**—(1) Where the Minister has delegated any authority to a council under section 4, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans and amendments thereto, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer, as the case may be, has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Idem (2) In addition to the authority of a council to, in turn, delegate any authority under subsection (1), where the Minister has delegated to a council his authority for the giving of consents under section 52, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate the authority for the giving of consents to a committee of adjustment constituted under section 43 and the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications in the exercise of that authority.

Conditions (3) A delegation made by a council under subsection (1) or (2) may be subject to such conditions as the council may by by-

law provide and as are not in conflict with any conditions provided by order of the Minister under section 4.

(4) A council may by by-law withdraw any delegation made under subsection (1) or (2), whereupon the provisions of subsection 4 (4) apply with necessary modifications.

Withdrawal
of
delegation of
powers

6.—(1) In this section, “ministry” means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government and Ontario Hydro.

Interpre-
tation

(2) A ministry, before carrying out or authorizing any undertaking that the ministry considers will directly affect any municipality, shall consult with, and have regard for, the established planning policies of the municipality.

Consultation

7. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants of money to assist in the performing of any duty or function of a planning nature.

Grants

PART II

LOCAL PLANNING ADMINISTRATION

8.—(1) The council of a municipality may appoint a planning advisory committee composed of such persons as the council may determine.

Planning
advisory
committee

(2) The councils of two or more municipalities may enter into agreement to provide for the joint undertaking of such matters of a planning nature as may be agreed upon and may appoint a joint planning advisory committee composed of such persons as they may determine.

Joint
planning
by agreement

(3) Persons appointed to a committee under this section may be paid such remuneration and expenses as the council or councils may determine, and where a joint committee is appointed, the councils may by agreement provide for apportioning to their respective municipalities the costs of the payments.

Remuner-
ation

9.—(1) The Minister may define and name a planning area consisting of the whole of two or more municipalities that are situate in a territorial district or consisting of the whole of one or more municipalities and territory without municipal organization.

Planning
area
defined by
Minister

Planning board for planning area to board

(2) Where a planning area is defined under subsection (1), the Minister shall establish the planning board for the planning area and specify the name of the board and the number of members to be appointed to it by the council of each municipality within the planning area and the number of members, if any, to be appointed by the Minister.

Appointments to board

(3) The council of each municipality shall appoint to the planning board the number of members specified by the Minister under subsection (2) and, after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized.

Term of office

(4) The members,

- (a) appointed by the council of each municipality shall hold office for the term of the council that appointed them; and
- (b) appointed by the Minister shall hold office for the term specified by the Minister in their appointment,

and until their successors are appointed.

Planning area in unorganized territory

10. The Minister may define and name a planning area consisting of territory without municipal organization and may establish and name a planning board for the planning area and appoint the members thereof.

Body corporate, quorum

11.—(1) A planning board is a body corporate and a majority of its members constitutes a quorum.

Chairman

(2) A planning board shall annually elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

Secretary-treasurer, employees, consultants

(3) A planning board shall appoint a secretary-treasurer, who may be a member of the board, and may engage such employees and consultants as is considered appropriate.

Execution of documents

(4) The execution of documents by a planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the board.

Estimates: one municipality

12.—(1) A planning board established by the Minister for a planning area consisting of one municipality and territory without municipal organization shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate

and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time.

(2) In the case of a planning board established for a planning area consisting of two or more municipalities or consisting of two or more municipalities and territory without municipal organization, the planning board shall annually submit its estimates to the council of each of such municipalities together with a statement as to the proportion thereof to be chargeable to each municipality.

two or more municipalities

(3) If the estimates submitted under subsection (2) are approved, or are amended and approved, by the councils of municipalities representing more than one-half of the population of the planning area for which the board was established, the estimates are binding on all the municipalities.

When estimates binding

(4) After the estimates have been approved as provided in subsection (3), the planning board shall so notify each municipality involved and shall notify each such municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection (2).

Notification

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Board.

Where apportionment not satisfactory

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final.

Power of O.M.B

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection (4) or by the Municipal Board under subsection (6), as the case may be.

Payment

13. Any municipality within a planning area may make grants of money to the planning board of the planning area.

Municipal grants

14.—(1) A planning board shall provide advice and assistance in respect of such planning matters affecting the planning area as are referred to the board,

Duties of planning board: advice and assistance

(a) by the councils to which the board submits its estimates under section 12, or by any of such councils; or

- (b) by the Minister, in the case of a planning board appointed for a planning area consisting solely or partially of territory without municipal organization.

preparation of official plan

(2) A planning board shall prepare a plan suitable for adoption as the official plan of the planning area, or at the request of any of the councils mentioned in subsection (1), prepare a plan suitable for adoption as the official plan of the municipality of which it is the council.

Upper-tier municipalities; planning functions

15. The council of a county or of a regional, metropolitan or district municipality, on such terms and conditions as may be agreed upon with the council of a local municipality that for municipal purposes forms part of the county or that forms part of the regional, metropolitan or district municipality, as the case may be, may,

- (a) assume any authority, responsibility, duty or function of a planning nature that the local municipality has under this or any other Act; or
- (b) provide advice and assistance to the local municipality in respect of planning matters generally.

PART III

OFFICIAL PLANS

Contents of official plan

16. In addition to the objectives and policies referred to in clause 1 (h), an official plan may contain a description of,

- (a) the measures and procedures proposed to attain the objectives of the plan; and
- (b) the measures and procedures for informing and securing the views of the public in respect of a proposed amendment to, or of a proposed revision of, the plan, or in respect of a proposed zoning by-law.

Preparation of official plan by municipality

17.—(1) The council of a municipality may provide for the preparation of a plan suitable for adoption as the official plan of the municipality.

Information and public meeting

(2) The council shall ensure that in the course of the preparation of the plan adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed.

(3) The meeting mentioned in subsection (2) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the proposed plan. Time for meeting, etc.

(4) Where an official plan contains provisions describing the measures for informing and securing the views of the public in respect of amendments that may be proposed for the plan, the provisions of subsections (2) and (3) do not apply to such amendments if the measures are complied with. Alternative procedure

(5) The council shall provide to such boards, commissions, authorities or other agencies as the council considers may have an interest in the proposed plan adequate information, and before adopting the plan the council shall afford them an opportunity to submit comments in respect of the plan up to such time as is specified by the council. Comments by agencies, etc.

(6) When the requirements of subsections (2), (3), (4) and (5) have been met and the council is satisfied that the plan as finally prepared is suitable for adoption, it may by by-law adopt the plan and submit it to the Minister for approval. Adoption of plan

(7) When the plan is adopted, the council shall cause to be compiled and forwarded to the Minister a record which shall include, Record

- (a) a certified copy of the by-law adopting the plan;
- (b) a statement by an employee of the municipality certifying that the requirements for the giving of notice and the holding of at least one public meeting as mentioned in subsection (2) or as described in the provisions of the official plan mentioned in subsection (4), as the case may be, and, for the giving of notice as mentioned in subsection (8), have been complied with;
- (c) the original or true copy of all written submissions or comments and accompanying material received prior to the adoption of the plan; and
- (d) such other information or material as the Minister may require.

(8) Where the council adopts the plan, the clerk of the municipality shall, not later than fifteen days after the day the plan was adopted, give written notice of the adoption of the Notice

plan to the Minister, to each person who filed with the clerk a written request to be notified if the plan is adopted and to each body that submitted comments under subsection (5) and that in writing requested to be notified if the plan is adopted.

Approval,
refusal to
approve or
modification
of plan by
Minister

(9) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the plan and, subject to subsection (11), may then approve, or, after consultation with the council, refuse to approve the plan or, if modifications appear desirable to the Minister, he may, after consultation with the council, make the modifications to the plan and approve the plan as modified.

Approval of
plan in part

(10) The Minister, instead of approving the whole of the plan, may approve part only of the plan and may, from time to time, approve additional parts of the plan, provided that nothing herein derogates from the right of any person or other body to request the Minister to refer any part of the plan to the Municipal Board under subsection (11).

Referral of
plan or part
thereof to
O.M.B.

(11) The Minister may refer the plan or any part of the plan to the Municipal Board and where the council or any person or other body requests the Minister to refer the plan or any part of the plan to the Municipal Board, the Minister shall refer the plan or such part to the Board, together with the statement mentioned in subsection (12), unless in his opinion, such request is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay.

Reasons

(12) Where a person submits a request to the Minister under subsection (11), he shall include therewith a statement in writing setting out the reasons for the request.

Explanation
for refusal to
refer

(13) Where the Minister refuses to refer the plan or any part of the plan to the Municipal Board as requested under subsection (11), he shall provide a written explanation for the refusal.

Parties

(14) The parties to a referral are the person or other body, if any, that requested the referral, the municipality and any person or other body added as a party by the Municipal Board.

Adding of
parties

(15) The Municipal Board may add as a party to the referral any person, including the Minister or other body who applies to the Board to be added as a party.

Represent-
ations by
person not a
party

(16) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.

(17) On a referral to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons or bodies as the Board considers appropriate.

Hearing and notice thereof

(18) The Municipal Board may make any decision that the Minister could have made.

Decision

(19) Where the plan or any part of the plan is referred to the Municipal Board under subsection (11), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the part thereof, may so advise the Board in writing not later than thirty days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the plan or the part or parts of the part of the plan, as the case may be, by which the provincial interest is, or is likely to be, adversely affected.

Where provincial interest adversely affected

(20) Where the Municipal Board has received notice from the Minister under subsection (19) the decision of the Board is not final and binding in respect of the part or parts identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of the part or parts.

Decision where provincial interest

(21) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board in respect of the part or parts of the plan identified in the notice and in doing so may direct the Minister to modify the part or parts of the plan.

Power of Lieutenant Governor in Council

18.—(1) Where a plan is prepared by a planning board, the plan shall not be recommended to any council for adoption as an official plan unless it is approved by a vote of the majority of all the members of the planning board.

Recommendation of plan

(2) When the plan is approved by the planning board, the board shall submit a copy thereof, certified by the secretary-treasurer of the board to be a true copy,

Submission of plan to council

(a) in the case of a plan prepared for a planning area, to the council of each municipality that is within the planning area; and

(b) in the case of a plan prepared at the request of a single municipality, to the council of that municipality,

together with a recommendation that it be adopted by the council.

(3) Each council to which the plan is submitted may, subject to subsections 17 (2) to (6), by by-law adopt the plan and the

Adoption of plan

clerk of each municipality, the council of which adopted the plan, shall provide the secretary-treasurer of the planning board with a certified copy of the adopting by-law and shall comply with subsections 17 (7) and (8).

Submission
of plan to
Minister

(4) When the secretary-treasurer of the planning board has received a certified copy of an adopting by-law from a majority of the councils to which the plan was submitted he shall submit the plan to the Minister for approval together with each certified copy of the adopting by-law, and thereafter subsections 17 (9) to (21) apply.

Application
of s. 17 (2-21)

(5) Where a planning area consists of the whole of one or more municipalities and territory without municipal organization the provisions of subsections 17 (2) to (21) apply, with necessary modifications, in respect of the part of the planning area that consists of territory without municipal organization as though the planning board were the council of a municipality and the secretary-treasurer of the planning board were the clerk of the municipality.

Adoption of
plan in
unorganized
territory

19. Before adopting a plan for a planning area consisting solely of territory without municipal organization, the planning board,

- (a) shall ensure that in the course of the preparation of the plan adequate information is made available to the public through the holding of one or more public meetings or, in the case of an amendment to the official plan, through such other measures as are provided for in the official plan, and shall afford every person who so requests an opportunity to make representation in respect of the plan; and
- (b) shall provide to such boards, commissions, authorities or other agencies as the planning board considers may have an interest in the proposed plan adequate information, and shall afford them an opportunity to submit comments in respect of the plan up to such time as is specified by the planning board,

and thereafter subsections 17 (6) to (21) apply, with necessary modifications, as though the planning board were the council of a municipality and the secretary-treasurer were the clerk of the municipality.

Lodging of
plan

20.—(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister.

(2) The lodging required by subsection (1) shall be carried out, Who to lodge plan

(a) in the case of an official plan that applies to only one municipality or part thereof or to only one municipality and territory without municipal organization, by the clerk of the municipality; and

(b) in the case of an official plan that applies to more than one municipality or parts thereof, by the clerk of the municipality that has the largest population.

(3) All copies lodged under subsection (1) shall be available for public inspection during office hours. Public inspection

21.—(1) Except as hereinafter provided, the provisions of this Act with respect to an official plan apply, with necessary modifications, to amendments thereto or the repeal thereof, provided that the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and the provisions of section 17 apply to any such amendment or repeal. Amendment or repeal of plan

(2) Where the Minister is satisfied that there is not a matter of provincial interest adversely affected by an amendment to an official plan submitted to him for approval and no request for referral has been received under subsection 17 (11) he may, in writing, waive the requirement for approval thereof, whereupon the amendment shall be deemed to be approved. Waiver of requirement for approval

22.—(1) Where any person requests a council to initiate an amendment to an official plan, other than an official plan that applies in whole or in part to territory without municipal organization, and the council refuses to adopt the amendment or fails to adopt it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board. Referral of proposed amendment to plan to O.M.B.

(2) Where any person requests a planning board to initiate an amendment to an official plan that applies in whole or in part to territory without municipal organization and the planning board refuses to adopt the amendment or to recommend the amendment for adoption, as the case may be, or fails to adopt or recommend it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board. Idem

(3) The Minister may confer on the proposed amendment in like manner as he is authorized to confer under subsection 17 (9) and he may refuse the request to refer the proposed amend- Powers of Minister to confer, etc.

ment to the Municipal Board on providing a written explanation for the refusal or may refer the proposed amendment to the Board.

Application
of s. 17 (14-
17)

(4) The provisions of subsections 17 (14) to (17) apply with necessary modifications when a proposed amendment is referred to the Municipal Board under subsection (3) and the Board shall hold a hearing and thereafter reject the proposed amendment or make the amendment in such manner as the Board may determine or direct that the council cause the amendment to be made in the manner provided in the order of the Board.

Where
provincial
interest
adversely
affected

(5) Where a proposed amendment is referred to the Municipal Board under subsection (3), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the proposed amendment, may so advise the Municipal Board in writing not later than thirty days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the proposed amendment by which the provincial interest is, or is likely to be, adversely affected.

Procedure by
O.M.B.

(6) Where the Municipal Board receives notice from the Minister under subsection (5) the provisions of subsections 17 (20) and (21) apply with necessary modifications.

Request by
Minister to
amend plan

23.—(1) Where the Minister is of the opinion that a matter of provincial interest as set out in a policy statement issued under section 3 is, or is likely to be, adversely affected by an official plan, the Minister may request the council of a municipality to adopt such amendment as the Minister specifies to an official plan and, where the council refuses the request or fails to adopt the amendment within such time as is specified by the Minister in his request, the Minister may make the amendment.

Hearing by
O.M.B.

(2) Where the Minister proposes to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality shall, request the Municipal Board to hold a hearing on the proposed amendment and the Board shall thereupon hold a hearing as to whether the amendment should be made.

Refusal to
refer to
O.M.B.

(3) Despite subsection (2), where the Minister is of the opinion that a request of any person or municipality made under subsection (2) is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay, he may refuse the request.

(4) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (2), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Notice

(5) The Municipal Board, after the conclusion of the hearing, shall make a decision as to whether the proposed amendment, or an alternative form of amendment, should be made but the decision is not final and binding unless the Lieutenant Governor in Council has confirmed it.

Decision of
O.M.B.

(6) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board made under subsection (5) and in doing so may direct the Minister to amend the plan in such manner as the Lieutenant Governor in Council may determine.

Powers of
L. G. in C.

24.—(1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith.

Public works
and by-laws
to conform
with plan

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

Validity of
by-laws
conforming
with
amendments
to plans

(3) Despite subsections (1) and (2), the council of a municipality may take into consideration the undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan.

Preliminary
steps that
may be taken
where
proposed
public work
would not
conform with
official plan

(4) Where a by-law is passed under section 34 by the council of a municipality in which an official plan is in effect and, within the time limited for appeal,

When zoning
by-law
deemed to
conform with
official plan

(a) no appeal is taken; or

- (b) an appeal is taken and the appeal is dismissed or the by-law is amended as directed on the appeal,

the by-law shall be conclusively deemed to be in conformity with the official plan, except that where the by-law is passed in the circumstances mentioned in subsection (2) the by-law shall be conclusively deemed to be in conformity with the official plan on and from the day the by-law was passed, if the Minister approves the amendment to the official plan as mentioned in subsection (2).

Acquisition of lands in accordance with provisions of plan

25.—(1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

Contribution towards cost

(2) Any municipality may contribute towards the cost of acquiring land under this section.

Determination of need for revision of plan

26.—(1) The council of every municipality that has adopted and had approved an official plan shall from time to time, and not less frequently than every five years, hold a special meeting of council, open to the public, for the purpose of determining the need for a revision of the official plan.

Notice

(2) Notice of every special meeting held under subsection (1) shall be published at least once a week in each of two separate weeks, such publication to be completed not later than thirty days before the date of the meeting, and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the need for a revision of the plan.

Direction by Minister

(3) Despite subsection (1), the Minister may, at any time, direct the council of a municipality to undertake a revision of any official plan or part thereof in effect in the municipality and when so directed the municipal council shall cause the revision to be undertaken without undue delay.

Amendments to conform with upper-tier plans

27.—(1) When the Minister has approved an official plan adopted by a county or by a regional, metropolitan or district municipality,

- (a) every official plan; and
- (b) every zoning by-law passed under section 34 of this Act or a predecessor thereof,

that is then in effect in the area affected by the county, regional, metropolitan or district plan shall be amended to conform therewith.

(2) Where an official plan is approved as mentioned in subsection (1) and any official plan or zoning by-law is not amended as required by that subsection within one year of the approval of the plan, the council of the county or of the regional, metropolitan or district municipality may thereupon amend the official plan or zoning by-law, as the case may be, in like manner and subject to the same requirements and procedures as if such council was the council that failed to make the amendment within the one year period as herein required.

Amendment
by upper-tier
municipality

(3) Where an amending by-law is passed under subsection (2) by the council of a county or the council of a regional, metropolitan or district municipality, the amending by-law shall be deemed for all purposes to be a by-law passed by the council of the municipality that passed the by-law that was amended.

Deemed to
be by-law of
lower-tier
municipality

(4) In the event of a conflict between the official plan of a county or of a regional, metropolitan or district municipality and the official plan of a local municipality, the plan of the county or of the regional, metropolitan or district municipality, as the case may be, prevails to the extent of such conflict, but in all other respects the official plan of the local municipality remains in full force and effect.

Where
conflict
between
plans

PART IV

COMMUNITY IMPROVEMENT

28.—(1) In this section,

Interpre-
tation

- (a) “community improvement” means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, reconstruction and rehabilitation, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;
- (b) “community improvement plan” means a plan approved by the Minister for the community improvement of a community improvement project area;

- (c) "community improvement project area" means an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other reason.

Designation
of
community
improvement
project area

(2) Where there is an official plan in effect in a local municipality that contains provisions relating to community improvement in the municipality, the council may, by by-law, designate the whole or any part of an area covered by such an official plan as a community improvement project area.

Acquisition
and clearance
of land

(3) When a by-law has been passed under subsection (2), the municipality may,

- (a) acquire land within the community improvement project area with the approval of the Minister if the land is acquired before the community improvement plan mentioned in subsection (4) is approved and without the approval of the Minister if the land is acquired after the community improvement plan is approved;
- (b) hold land acquired before or after the passing of the by-law within the community improvement project area; and
- (c) clear, grade or otherwise prepare the land for community improvement.

Preparation
of
community
improvement
plan

(4) When a by-law has been passed under subsection (2), the council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area and the provisions of subsections 17 (2) to (21) apply, with necessary modifications, in respect of the community improvement plan and any amendments thereto, provided however, where an official plan contains provisions describing the measures mentioned in subsection 17 (4), the provisions of subsections 17 (2) and (3) do not apply in respect of the community improvement plan and any amendments thereto, if the measures are complied with.

Deemed
community
improvement
plan

(5) The Minister may, in writing, deem the provisions relating to community improvement mentioned in subsection (2) to be a community improvement plan for the purposes of this section.

(6) For the purpose of carrying out the community improvement plan, the municipality may, Powers of council re land

- (a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improvement project area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;
- (b) sell, lease or otherwise dispose of any land acquired or held by it in the community improvement project area to any person or governmental authority for use in conformity with the community improvement plan.

(7) For the purpose of carrying out the community improvement plan, the municipality may make grants or loans to the registered owners or assessed owners of lands and buildings within the community improvement project area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the community improvement plan. Grants or loans

(8) The provisions of subsections 32 (2) and (3) apply with necessary modifications to any loan made under subsection (7) of this section. Application of s. 32 (2, 3)

(9) Until a by-law or amending by-law passed under section 34 after the adoption of the community improvement plan is in force in the community improvement project area, no land acquired, and no building constructed, by the municipality in the community improvement project area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of enters into a written agreement with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the community improvement plan until such a by-law or amending by-law is in force, but the municipality may, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the community improvement plan, for a term of not more than three years at any one time. Conditions of sale, etc.

(10) An agreement entered into under subsection (9) may be registered against the land to which it applies and the municipality shall be entitled to enforce the provisions thereof against any party to the agreement and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners or tenants of the land. Registration of agreement

R.S.O. 1980, cc. 445, 230

Debentures
R.S.O. 1980,
c. 302

(11) Despite subsection 143 (1) of the *Municipal Act*, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides.

Dissolution
of area

(12) When the council is satisfied that the community improvement plan has been carried out, the council may, by by-law, dissolve the community improvement project area.

Agreement
re studies and
development

29.—(1) A municipality, with the approval of the Minister, may enter into agreement with any governmental authority or any agency thereof created by statute, for the carrying out of studies and the preparation and implementation of plans and programs for the development or improvement of the municipality.

Where
approval of
Minister not
required

(2) Despite subsection (1), a municipality may enter into agreement with one or more other municipalities under subsection (1) without the approval of the Minister.

Agreements
for grants in
aid of
community
improvement

30. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the community improvement of a community improvement project area as defined in section 28, including the carrying out of studies for the purpose of selecting areas for community improvement.

Interpre-
tation

31.—(1) In this section,

- (a) “committee” means a property standards committee established under this section;
- (b) “occupant” means any person or persons over the age of eighteen years in possession of the property;
- (c) “officer” means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;
- (d) “owner” includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the prop-

erty in accordance with the standards for the maintenance and occupancy of property;

- (e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;
- (f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform with the standards established in a by-law passed under this section.

(2) Where there is no official plan in effect in a local municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions.

Adoption of policy statement

(3) If,

- (a) an official plan that includes provisions relating to property conditions is in effect in a local municipality; or
- (b) the council of a local municipality has adopted a policy statement as mentioned in subsection (2),

Standards for maintenance and occupancy

the council of the municipality may pass a by-law,

- (c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards;
- (d) for requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition;
- (e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

Inspection

(4) Subject to subsection (5), when a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

Entry
into
dwelling
place
R.S.O. 1980,
c. 400

(5) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

Notice of
violation

(6) If, after inspection, the officer is satisfied that in some respect the property does not conform with the standards prescribed in the by-law, he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to, the owner of the property and all persons shown by the records of the land registry office and the sheriff's office to have any interest therein a notice containing particulars of the nonconformity and may, at the same time, provide all occupants with a copy of such notice.

Contents of
under

(7) After affording any person served with a notice provided for by subsection (6) an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,

- (a) the municipal address or the legal description of such property;
- (b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and
- (c) the final date for giving notice of appeal from the order.

Order to
be sent to
last known
address

(8) A notice or an order under subsection (6) or (7), when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

(9) If the officer is unable to effect service under subsection (6) or (7), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

Substituted
service

(10) An order under subsection (7) may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under subsection (7) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order.

Registration
of notice

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such persons, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

Property
standards
committee

(12) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member as acting chairman and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

Chairman,
acting
chairman,
secretary

(13) The members of the committee shall be paid such compensation as the council may provide.

Remuner-
ation

(14) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

Filing of
documents,
etc.
R.S.O. 1980,
c. 302

(15) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection (17) shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

Quorum and
procedure

(16) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the sec-

Appeal to
committee

retary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.

Decision
on appeal

(17) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

Appeal to
judge

(18) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (17) may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

- (a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;
- (b) the appointment shall be served in the manner prescribed by the judge; and
- (c) the judge on such appeal has the same powers and functions as the committee.

Effect of
decisions

(19) The order, as deemed to have been confirmed under subsection (16), or as confirmed or modified by the committee under subsection (17) or, in the event of an appeal to the judge under subsection (18), as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

Power of
corporation
to repair or
demolish

(20) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,

- (a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

(21) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection (3), and the council of a municipality may prescribe a fee payable for such a certificate where it is issued at the request of the owner.

Certificate of compliance

(22) An owner who fails to comply with an order that is final and binding under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each day that the contravention has continued.

Enforcement

(23) Despite any other provisions of this section, if upon inspection of a property the officer is satisfied there is nonconformity with the standards prescribed in the by-law to such extent as to pose an immediate danger to the health or safety of any person the officer may make an order containing particulars of the nonconformity and requiring remedial repairs or other work to be carried out forthwith to terminate the danger.

Emergency order

(24) After making an order under subsection (23), the officer may, either before or after the order is served, take or cause to be taken any measures he considers necessary to terminate the danger, and for this purpose the municipality has the right, through its servants and agents, to enter in and upon the property from time to time.

Emergency powers

(25) The officer, the municipality or anyone acting on behalf of the municipality is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under subsection (24).

No compensation where reasonable exercise of powers

(26) Where the order was not served before measures were taken by the officer to terminate the danger, as mentioned in subsection (24), the officer shall forthwith after the measures have been taken, serve or send copies of the order, in accordance with subsections (7), (8) and (9), on or to the owner of the property and all persons mentioned in subsection (6) and each copy of the order shall have attached thereto a statement by the officer describing the measures taken by the municipality and providing details of the amount expended in taking the measures.

Service of order and statement

Separate
service of
statement

(27) Where the order was served before the measures were taken the officer shall forthwith after the measures have been taken serve or send a copy of the statement mentioned in subsection (26), in accordance with subsections (7), (8) and (9), on or to the owner of the property and all persons mentioned in subsection (6).

Application
to county
judge

(28) Forthwith after the requirements of subsection (26) or (27) have been complied with the officer shall apply to a judge of the county or district court of the judicial district in which the property is situate for an order confirming the order made under subsection (23), and,

- (a) the judge shall, in writing, appoint a day, time and place for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;
- (b) the appointment shall be served in the manner prescribed by the judge; and
- (c) the judge in disposing of the application may confirm the order or may modify or quash it and shall make a determination as to whether the amount expended by the municipality in taking the measures to terminate the danger may be recovered by the municipality in whole, in part or not at all.

Disposition
by judge
final

(29) The disposition of the application under clause (28) (c) is final and binding.

Recovery of
expense

(30) Where a municipality demolishes or repairs property as mentioned in subsection (20) or takes measures to terminate a danger as mentioned in subsection (24) the municipality may recover the expense incurred in respect thereof by any or all of the methods provided for in section 325 of the *Municipal Act*, except that such amount, if any, as is to be borne by the municipality as a result of a determination under clause (28) (c) may not be recovered.

R.S.O. 1980,
c. 302

Grants or
loans for
repairs

32.—(1) When a by-law under section 31 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 31 (6) to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe.

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Loans
collected as
taxes, lien
on land

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

Registration
of
certificate

33.—(1) In this section,

Interpre-
tation

- (a) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;
- (b) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

(2) When a by-law under section 31 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section.

Establishment
of demolition
control area
by by-law

Council
may issue
or refuse
to issue
permit

(3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

Appeal to
O.M.B.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

Notice of
appeal

(5) The person appealing to the Municipal Board under subsection (4) shall, in such manner and to such persons as the Board may direct, give notice of the appeal to the Board.

Application
for demoli-
tion permit
where build-
ing permit
issued

(6) Subject to subsection (7), the council shall, on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished.

Conditions of
demolition
permit

(7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

Registration
of certificate

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection (7), a certificate signed by the clerk setting out the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

(9) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

Appeal to
O.M.B.

(10) Where any person who has obtained a demolition permit under subsection (6) that is subject to conditions under subsection (7) considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Application
to council for
relief from
conditions of
demolition
permit

(11) Where an application is made under subsection (10), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

Powers of
council on
application

(12) Any person who has made application to the council under subsection (10) may appeal from the decision of the council to the Municipal Board within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection (11) and the decision of the Board shall be final.

Appeal to
O.M.B.

(13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$20,000 for each dwelling unit contained in the residential property, the whole or any portion of which residential prop-

Offence

erty has been demolished, or to imprisonment for a term of not more than six months, or to both.

Standards
for health
and safety
remain in
force

(14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition control.

Certain
proceedings
stayed

(15) Subject to subsection (14), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 31 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon.

Application
of
R.S.O. 1980,
c. 51, s. 5

(16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in section 5 of the *Building Code Act*.

PART V

LAND USE CONTROLS AND RELATED ADMINISTRATION

Zoning
by-laws

34.—(1) Zoning by-laws may be passed by the councils of local municipalities:

Restricting
use of land

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

Restricting
erecting,
locating or
using of
buildings

2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

Marshy
lands,
etc.

3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy or unstable.

4. For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy. Construction of buildings or structures
5. For regulating the minimum elevation of doors, windows or other openings in buildings or structures or in any class or classes of buildings or structures to be erected or located within the municipality or within any defined area or areas of the municipality. Minimum elevation of doors, etc.
6. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway. Loading or parking facilities

(2) The making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purposes of paragraph 1 of subsection (1). Pits and quarries

(3) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law. Minimum area and density provisions

(4) A trailer as defined in clause (a) of paragraph 95 of section 210 of the *Municipal Act* and a mobile home as defined in clause 45 (1) (a) of this Act shall be deemed to be a building or structure for the purposes of this section. Interpretation
R.S.O. 1980,
c. 302

(5) A by-law heretofore or hereafter passed under paragraph 1 or 2 of subsection (1) or a predecessor of such paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be. Prohibition of use of land, etc., availability of municipal services

(6) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certi- Certificates of occupancy

ificate shall be refused if the proposed use is not prohibited by the by-law.

Use of maps

(7) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

Acquisition and disposition of non-conforming lands

(8) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality.

Excepted lands and buildings

(9) No by-law passed under this section applies,

(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or

(b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure for which a permit has been issued under section 5 of the *Building Code Act*, prior to the day of the passing of the by-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under section 6 of the *Building Code Act*.

R.S.O. 1980,
c. 51

By-law may be amended

(10) Despite any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed.

Appeal to O.M.B.

(11) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and dismiss the

same or amend the by-law in such manner as the Board may determine or direct that the by-law be amended in accordance with its order.

(12) Before passing a by-law under this section, the council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed, for the purpose of informing the public in respect of the proposed by-law.

Information
and public
meeting

(13) The meeting mentioned in subsection (12) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the proposed by-law.

Time for
meeting,
etc.

(14) Where there is an official plan in effect in the municipality that contains provisions describing the measures for informing and securing the views of the public in respect of proposed zoning by-laws the provisions of subsections (12) and (13) do not apply to such proposed by-laws if the measures are complied with.

Alternative
procedure

(15) The council shall provide to such boards, commissions, authorities or other agencies as the council considers may have an interest in the proposed by-law, adequate information, and before passing the by-law the council shall afford them an opportunity to submit comments in respect of it up to such time as is specified by the council.

Comments
by agencies,
etc.

(16) Where a change is made in a proposed by-law after the holding of the meeting mentioned in subsection (12), the council shall determine whether any further notice is to be given in respect of the proposed by-law and the determination of the council as to the giving of further notice is final and not subject to review in any court irrespective of the extent of the change made in the proposed by-law.

Further
notice

(17) Where the council passes a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11), the clerk of the municipality shall, not later than fifteen days after the day the by-law was passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and agencies prescribed.

Notice of
passing of
by-law

(18) Any person including the Minister or agency may, within thirty-five days from the date of the passing of the by-

Appeal to
O.M.B.

law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

When by-law deemed to have come into force

(19) When no notice of appeal is filed under subsection (18), the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 24 (2) the by-law shall not be deemed to have come into force on the day it was passed until the Minister has approved the amendment to the official plan as mentioned in subsection 24 (2).

Affidavit re no appeal, etc.

(20) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (17) or that no notice of appeal was filed under subsection (18) within the time allowed for appeal shall be conclusive evidence of the facts stated therein.

Forwarding of record, etc., to O.M.B.

(21) The clerk of the municipality, upon receipt of a notice of appeal under subsection (18), shall compile a record which shall include,

- (a) a copy of the by-law certified by him;
- (b) an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsection (17) have been complied with; and
- (c) the original or a true copy of all written submissions and material in support of the submissions received in respect of the by-law prior to the passing thereof,

and the clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board and shall provide such other information or material as the Board may require in respect of the appeal.

Parties

(22) The parties to an appeal are the appellant, the municipality and any person or agency added as a party by the Municipal Board.

Adding of parties

(23) The Municipal Board may add as a party to the appeal any person including the Minister, or agency who applies to the Board to be added as a party.

Representations by person not party

(24) Despite the fact that a person is not a party to the appeal, the Municipal Board may permit the person to make representations at the hearing.

(25) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the appeal, and to such other persons as the Board considers appropriate.

Hearing

(26) Despite subsection (25), the Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before so dismissing the appeal shall notify the appellant and afford him an opportunity to make representations as to the merits of the appeal.

Dismissal of
appeal
without
hearing

(27) The Municipal Board may,

Powers of
O.M.B.

(a) dismiss the appeal; or

(b) allow the appeal in whole or in part and repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order.

(28) Where an appeal has been filed under subsection (18), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the by-law, may so advise the Municipal Board in writing not later than thirty days before the day fixed by the Board for the hearing of the appeal and the Minister shall identify the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected.

Where
provincial
interest
adversely
affected

(29) Where the Municipal Board has received notice from the Minister under subsection (28) and has made a decision on the by-law the Board shall not make an order under subsection (27) in respect of the part or parts of the by-law identified in the notice.

Procedure

(30) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such manner as the Lieutenant Governor in Council may determine.

Power of
L.G. in C.

(31) Where one or more appeals have been filed under subsection (18), the by-law does not come into force until all of such appeals have been finally disposed of whereupon the by-law, except for such parts thereof as are repealed or amended in accordance with the direction of the Municipal Board or as

When by-law
deemed to
have come
into force

are repealed or amended by the Municipal Board or by the Lieutenant Governor in Council as mentioned in subsections (27) and (30), shall be deemed to have come into force on the day it was passed.

Holding
provision
by-law

35.—(1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol “H” (or “h”) in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law.

Condition

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the use of the holding symbol mentioned in subsection (1).

Appeal to
O.M.B.

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council refuses or neglects to make a decision thereon within thirty days after receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order.

Application
of
s. 34 (11-26)

(4) Subsections 34 (11) to (26) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and agencies and containing the information prescribed, give notice of its intention to pass the amending by-law.

Increased
density, etc.,
provision
by-law

36.—(1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.

Condition

(2) A by-law may not be passed containing the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development.

Agreements

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

(4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

Registration
of agreement

R.S.O. 1980,
cc. 445, 230

37.—(1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law.

Interim
control
by-law

(2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law.

Extension of
period by-law
in effect

(3) No notice or hearing is required prior to the passing of a by-law under subsection (1) or (2) but the clerk of the municipality shall, in the manner and to the persons and agencies and containing the information prescribed, give notice of a by-law passed under subsection (1) or (2) within thirty days of the passing thereof.

Notice of
passing of
by-law

(4) Any person or agency to whom notice of a by-law was given under subsection (3) may, within sixty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Appeal to
O.M.B.

(5) Where a notice of appeal is filed under subsection (4), the provisions of subsections 34 (21) to (30) apply with necessary modifications.

Application
of
s. 34 (21-30)

(6) Where the period of time during which an interim control by-law is in effect has expired and the council has not passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, or where an interim control by-law is repealed or the extent of the area covered thereby is reduced, the provisions of any by-law passed under section 34 that applied immediately prior to the coming into force of the

When prior
zoning by-
law
again has
effect

interim control by-law again come into force and have effect in respect of all lands, buildings or structures formerly subject to the interim control by-law.

Prohibition

(7) Where an interim control by-law ceases to be in effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied.

Application of s. 34 (9)

(8) The provisions of subsection 34 (9) apply with necessary modifications to a by-law passed under subsection (1) or (2).

Temporary use provisions

38.—(1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law.

Area and time in effect

(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and prescribe the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law.

Extension

(3) Despite subsection (2), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized.

Non-application of s. 34 (9) (a)

(4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3), clause 34 (9) (a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized.

Agreement exempting owner from requirement to provide parking

39.—(1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities.

Payment of money

(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated.

Special account

(3) All moneys received by a municipality under an agreement entered into under this section shall be paid into a special account, and the moneys in such special account shall be applied for the same purposes as a reserve fund established under paragraph 55 of section 208 of the *Municipal Act* may be applied, and the moneys in such special account may be

invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor of the municipality in his annual report shall report on the activities and position of the account.

R.S.O. 1980, c. 512

(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies, and when so registered, any moneys payable to the municipality under the agreement that have become due for payment shall be deemed to be taxes due upon the land under section 369 of the *Municipal Act* and may be collected in the same manner as municipal taxes.

Registration of agreement

R.S.O. 1980, c. 302

(5) When all moneys payable to the municipality under an agreement registered under subsection (4) have been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registerable in the proper land registry office, certifying that the moneys have been paid or that the agreement has been terminated.

Certificate

40.—(1) In this section, “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in clause (a) of paragraph 95 of section 210 of the *Municipal Act* or of sites for the location of three or more mobile homes as defined in clause 45 (1) (a) of this Act.

Interpretation

(2) Where in an official plan an area is shown or described as a proposed site plan control area, the council of the local municipality in which the proposed area is situate may, by by-law designate the whole or any part of such area as a site plan control area.

Establishment of site plan control area

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34.

Designation of site plan control area

(4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (12), the Municipal Board has approved one or both, as the council may determine, of the following:

Approval of plans or drawings

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (7) (a).
2. Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing less than twenty-five dwelling units, which drawings are sufficient to display,
 - (a) the massing and conceptual design of the proposed building;
 - (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and
 - (c) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause (c), the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

Drawings for residential buildings

(5) Despite the exception provided in paragraph 2 of subsection (4), the council of the municipality may require the drawings mentioned therein for a building to be used for residential purposes containing less than twenty-five dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area wherein such drawings may be required.

Proviso

(6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

Conditions to approval of plans

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Subject to the provisions of subsections (8) and (9), widenings of highways that abut on the land.
 2. Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs. R.S.O. 1980,
c. 421
 3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
 4. Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access.
 5. Facilities for the lighting, including floodlighting, of the land or of any building structures thereon.
 6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
 7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
 8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land.
 9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
- (b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

- (c) enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4).

Widenings,
etc., of
county,
regional,
etc.,
highways

(8) Where an area designated under subsection (2) is within a county or a regional, metropolitan or district municipality, plans and drawings in respect of any development proposed to be undertaken in the area shall not be approved until the county or regional, metropolitan or district municipality has been advised of the proposed development and afforded a reasonable opportunity to require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the county or regional, metropolitan or district municipality any or all of the following:

1. Subject to the provisions of subsection (9), widenings of highways that are under the jurisdiction of the county or regional, metropolitan or district municipality and that abut on the land.

2. Subject to the *Public Transportation and Highway Improvement Act*, where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, facilities to provide access to and from the land such as access ramps and curbings and traffic direction signs.

3. Where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, offstreet vehicular loading and parking facilities, either covered or uncovered, access driveways including driveways for emergency vehicles, and the surfacing of such areas and driveways;

- (b) enter into one or more agreements with the county or regional, metropolitan or district municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) and the maintenance thereof at the sole risk and expense of the owner, including the removal of snow from access ramps and driveways and parking and loading areas.

R.S.O. 1980,
c. 421

(9) An owner may not be required to provide a highway widening under paragraph 1 of clause (7) (a) or under paragraph 1 of clause (8) (a) unless the highway to be widened is shown on or described in an official plan as a highway to be widened and the extent of the proposed widening is likewise shown or described.

Widening must be described in official plan

(10) Any agreement entered into under clause (7) (c) or under clause (8) (b) may be registered against the land to which it applies and the municipality or the county or regional, metropolitan or district municipality, as the case may be, is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

Registration of agreements

R.S.O. 1980, cc. 445, 230

(11) Section 325 of the *Municipal Act* applies to any requirements made under clauses (7) (a) and (b) and to any requirements made under an agreement entered into under clause (7) (c).

Application of R.S.O. 1980, c. 302, s. 325

(12) Where the municipality fails to approve the plans or drawings referred to in subsection (4) within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection (7) or by the county or regional, metropolitan or district municipality under subsection (8) or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality or to the clerk of the county or regional, metropolitan or district municipality in the case of a requirement made by a county or regional, metropolitan or district municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Appeal to O.M.B.

(13) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law,

Classes of development, delegation

- (a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5); and

- (b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a).

Proviso

(14) Section 35a of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as it existed on the 21st day of June, 1979, shall be deemed to continue in force in respect of any by-law passed under that section on or before that day.

Certain agreements declared valid and binding
R.S.O. 1970, c. 349

(15) Every agreement entered into by a municipality after the 16th day of December, 1973 and before the 22nd day of June, 1979, to the extent that the agreement deals with facilities and matters mentioned in subsection 35a (2) of *The Planning Act* as it existed on the 21st day of June, 1979, is hereby declared to be valid and binding.

Conveyance of land for park purposes

41.—(1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land be conveyed to the municipality for park or other public recreational purposes.

Interpretation

(2) For the purposes of subsection (3), "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.

Alternative requirement

(3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law.

Official plan requirement

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement.

(5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time.

Use and sale of land

(6) The council of a municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of such conveyance and for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or, where more than one building permit is required for the development, as of the day before the day of the issuance of the first permit, and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the *Expropriations Act*, determine the value of the land.

Cash payment in lieu of conveyance

R.S.O. 1980, c. 148

(7) The provisions of subsection 50 (12) apply with necessary modifications to all moneys received under subsection (5) or (6).

Application of s. 50 (12)

(8) Where land has been conveyed to a municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the municipality pursuant to a condition imposed under this section or under section 50 or section 52 or under a predecessor of any of such sections, the conveyance or payment, as the case may be, shall be included in determining the amount of land or payment of money in lieu thereof that may subsequently be required under this section on the development, further development or redevelopment of the lands or part thereof in respect of which the original conveyance or payment was received.

Where account taken of previous conveyances or payments

(9) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money in lieu thereof that may subsequently be required, as mentioned in subsection (8), either party may apply to the Municipal Board and the Board shall make a final determination in the matter.

Application to O.M.B.

42.—(1) Subsections 34 (12) to (31) do not apply to a by-law that amends a by-law only to express a word, term or measurement in the by-law in a unit of measurement set out in Schedule I of the *Weights and Measures Act* (Canada) in accordance with the definitions set out in Schedule II of that Act and that,

Application of s. 34 (12-31)

R.S.C. 1970, c. W-8

- (a) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or
- (b) does not vary by more than 5 per cent any measurement so expressed.

Effect of amendment that conforms with subs. (1)

(2) Any land, building or structure that otherwise conforms with a by-law passed under section 34 or a predecessor thereof or an order made by the Minister under section 46 or a predecessor thereof does not cease to conform with the by-law or order by reason only of an amendment to the by-law or order that conforms with subsection (1).

Establishment of committee of adjustment

43.—(1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable.

Copy of by-law to Minister

(2) Where a by-law is passed under subsection (1), a certified copy of the by-law shall be sent to the Minister by registered mail by the clerk of the municipality within thirty days of the passing thereof.

Term of office

(3) The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council shall be appointed annually.

Idem

(4) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term.

Quorum

(5) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum.

Vacancy not to impair powers

(6) Subject to subsection (5), a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

Chairman

(7) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member to act as acting chairman.

(8) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the moneys appropriated for the purpose.

Secretary-treasurer, employees

(9) The members of the committee shall be paid such compensation as the council may provide.

Remuneration

(10) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

Filing of documents, etc.

R.S.O. 1980, c. 302

(11) In addition to complying with the requirements of this Act, the committee shall comply with such rules of procedure as are prescribed.

Rules of procedure

44.—(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 37, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

Powers of committee; general

(2) In addition to its powers under subsection (1), the committee, upon any such application,

special

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, provided that the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee,

is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

- (b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

Power of committee to grant minor variances

(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered the provisions of subsection (1) apply with necessary modifications.

Time for hearing

(4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.

Notice of hearing

(5) The committee, before hearing an application, shall in the manner and to the persons and agencies and containing the information prescribed, give notice of the application.

Hearing

(6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.

Oaths

(7) The chairman, or in his absence the acting chairman, may administer oaths.

Decision

(8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

Conditions in decision

(9) Any authority or permission granted by the committee under subsections (1), (2) and (3) may be for such time and

subject to such terms and conditions as the committee considers advisable and as are set out in the decision.

(10) The secretary-treasurer shall not later than ten days from the making of the decision send by mail one copy of the decision, certified by him,

Notice of
decision

- (a) to the Minister, if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;
- (b) to the applicant; and
- (c) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

(11) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection (10), he shall also send to the Minister such other information and material as may be prescribed.

Additional
material

(12) The applicant, the Minister or any other person who has an interest in the matter may within thirty days of the making of the decision 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 a notice of appeal setting out the objection to the decision and the reasons in support of the objection 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.

Appeal to
O.M.B.

R.S.O. 1980,
c. 347

(13) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection (12) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) 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 Board.

Idem

(14) If within such thirty 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.

Where no
appeal

Where
appeals
withdrawn

(15) Where all appeals to the Municipal Board are withdrawn by the persons who gave notice of appeal, the decision of the committee is final and binding and the secretary of the Board shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

Hearing

(16) On an appeal to the Municipal Board, the Board shall, except as provided in subsections (15) and (17), 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 Board may determine.

Dismissal
of appeal
by O.M.B.

(17) The Municipal Board may, where it is of the opinion that the objection to the decision set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing, but before so dismissing the appeal, shall notify the appellant and afford him an opportunity to make representations as to the merits of the appeal.

Powers of
O.M.B.

(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.

Notice of
decision

(19) When the Municipal Board makes an order on an appeal, the secretary of the Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

Idem

(20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.

Interpre-
tation

45.—(1) In this section,

- (a) “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;
- (b) “parcel of land” means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 49 (3) (b) or clause 49 (5) (a).

One mobile
home per
parcel of land
R.S.O. 1980,
c. 413

(2) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause 46 (1) (a), or a permit issued under section 13 of the *Public Lands Act*, no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land

as defined in clause (1) (b) of this section, and in no case except as otherwise so authorized shall any person erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land.

(3) This section does not apply to prevent the continued use in the same location of any mobile home that, Saving

- (a) was erected or located and in use prior to the 1st day of June, 1977; or
- (b) was erected or located in accordance with a building permit issued prior to the 1st day of June, 1977.

46.—(1) The Minister may by order,

- (a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, but subsections (12) to (31) of that section do not apply to the exercise of such powers; and
- (b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 49 (4).

Power of
Minister re
zoning and
subdivision
control

(2) Where an order has been made under clause (1) (a), the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 44 (1) and (2) in respect of a by-law passed under section 34, but the provisions of subsections 44 (4) to (8) and (10) to (20) do not apply to the exercise by the Minister of such powers.

Power of
Minister to
allow minor
variances

(3) In the event of a conflict between an order made under clause (1) (a) and a by-law that is in effect under section 34 or 37, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect.

Order
prevails
over by-law
in event
of conflict

(4) Where the Minister so provides in the order, an order made under clause (1) (a) in respect of land situate in a municipality the council of which has the powers conferred by section 34 shall be deemed for all purposes except the purposes of section 24 to be a by-law passed by the council of the municipality in which the land is situate and to be in force in the municipality.

Where order
deemed
by-law of
municipality

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thirty days of the making thereof in

Notice

such manner as he considers proper and shall set out in the notice the provisions of subsections (8), (9) and (10).

Idem

(6) The Minister shall cause a duplicate or certified copy of an order made under clause (1) (a),

(a) where the land affected is situate in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more local municipalities, in the office of the clerk of each of such municipalities and the provisions of subsection 78 (2) of the *Municipal Act* apply with necessary modifications; and

(b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production.

R.S.O. 1980,
c. 302

Registration

(7) The Minister shall cause a certified copy or duplicate of an order made under clause (1) (b) to be registered in the proper land registry office.

Revocation
or
amendment

(8) The Minister may, on his own initiative or at the request of any person, by order, amend or revoke in whole or in part any order made under subsection (1).

Notice

(9) Except as provided in subsection (10), the Minister before amending or revoking in whole or in part an order made under subsection (1) shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof.

Hearing
by O.M.B.

(10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection (1), the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part.

Refusal of
request by
Minister

(11) Despite subsection (10), where the Minister is of the opinion that a request of any person made under subsection (10) is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay, he may refuse the request.

Notice of
hearing

(12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), notice of the hearing shall be given in such manner and to such persons

as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

(13) The Municipal Board after the conclusion of the hearing shall make a decision to either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the Minister shall, except as provided in subsection (16), give effect to the decision of the Board.

Decision of
O.M.B.

(14) A copy of the decision of the Municipal Board shall be sent to each person who appeared at the hearing and made representation and to any person who in writing requests a copy of the decision.

Notification
of decision

(15) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the requested revocation or amendment, he may so advise the Municipal Board in writing not later than thirty days before the day fixed by the Board for the hearing of the application.

Where
provincial
interest
adversely
affected

(16) Where the Municipal Board has received notice from the Minister under subsection (15) and has made a decision on the requested revocation or amendment the Minister shall not give effect to the decision under subsection (13) unless the Lieutenant Governor in Council has confirmed the decision.

Decision
where
provincial
interest

(17) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board where notice of a matter of provincial interest was given under subsection (15) and in doing so may direct the Minister to amend or revoke the order in whole or in part.

Disposition
by
L.G. in C.

(18) An order of the Minister made under clause (1) (b) has the same effect as a by-law passed under subsection 49 (4).

Effect of
land use
order

47. Despite the provisions of any other general or special Act, a licence, permit, approval or permission shall not be issued or granted nor any utility or service provided by a public utilities commission or other public or Crown agency in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 45 or of an order made under section 46.

Where
licence,
etc., not
to issue

48.—(1) In this section, “officer” means an officer who has been assigned the responsibility of enforcing section 45,

Interpre-
tation

orders of the Minister made under clause 46 (1)(a) or zoning by-laws passed under section 34.

Entry and inspection

(2) Subject to subsection (3), where an officer believes on reasonable grounds that section 45, an order of the Minister made under clause 46 (1)(a) or a by-law passed under section 34 or 37 is being contravened, the officer or any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property on or in respect of which he believes the contravention is occurring.

Where warrant under R.S.O. 1980, c. 400, s. 142, required

(3) Except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*, an officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

PART VI

SUBDIVISION OF LAND

Interpretation

49.—(1) In this section and in section 52 “consent” means,

- (a) where the land is situate within a regional municipality or is situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford, a consent given by the regional council, the Metropolitan Council, the District Council or the County Council, as the case may be;
- (b) where the land is situate within a town, village or township that forms part of a county for municipal purposes, a consent given by the council of the county;
- (c) where the land is situate within a local municipality that is within a county, but that does not form part of the county for municipal purposes other than land situate within the Township of Pelee, in the County of Essex, a consent given by the council of the local municipality;
- (d) where the land is situate within a city that is within a territorial district, other than a city within a regional

or district municipality, a consent given by the council of the city; or

- (e) where the land is situate in a territorial district but is not within a regional or district municipality or is not within a city, or where land is situate in the Township of Pelee, in the County of Essex, a consent given by the Minister,

and a reference herein and in section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53.

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only. Proviso

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless, Subdivision control

- (a) the land is described in accordance with and is within a registered plan of subdivision;
- (b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;
- (c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;
- (d) the land or any use of or right therein is being acquired for the purpose of a transmission line as defined in the *Ontario Energy Board Act* and in respect of which the person acquiring the land or any

use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

- (e) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose; or
- (f) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

R.S.O. 1980,
c. 85

Designation
of plans of
subdivision
not deemed
registered

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3).

Part-lot
control

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed, or transfer, or grant, assign or exercise a power of appointment in respect of a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

- (a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than

land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;

- (b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;
- (c) the land or any use of or right therein is being acquired for the purpose of a transmission line or utility line, both as defined in the *Ontario Energy Board Act*, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; R.S.O. 1980,
c. 332
- (d) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose; R.S.O. 1980,
c. 85
- (e) the land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by a body that has vested in it the right to acquire land by expropriation; or
- (f) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

(6) Despite subsections (3) and (5), where land is the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a consent given under clause (3) (f) or (5) (f), the whole of the remaining part may be conveyed or otherwise dealt with before the other part or parts are conveyed or otherwise dealt with, provided that the remaining part is conveyed or otherwise dealt with before the consent mentioned above lapses under subsection 52 (22). Conveyance
of remaining
part

Designation
of lands not
subject to
part-lot
control

(7) Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection (5) ceases to apply to such land, but the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection (24) have been complied with, subsection (5) thereupon applies to the lands affected by the repeal or amendment.

Exception

(8) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance.

Part of
building or
structure

(9) Nothing in subsections (3) and (5) prohibits the entering into of an agreement that has the effect of granting the use of or right in a part of a building or structure for any period of years.

Agreement
under
R.S.O. 1980,
c. 126, s. 2

(10) This section does not apply to an agreement entered into under section 2 of the *Drainage Act*.

Application
to ARDA

(11) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer.

Exception to
application of
subs. (3, 5)

(12) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 52, subsections (3) and (5) of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.

Reference to
stipulation

(13) Where the council or the Minister stipulates in accordance with subsection (12), the certificate provided for under subsection 52 (21) shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation.

(14) Where land is within a registered plan of subdivision or within a registered description under the *Condominium Act* or where land is conveyed with a consent given under section 52 or a predecessor thereof, any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, but this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the 15th day of December, 1978.

Effect of
contra-
vention of
s. 49, etc.,
before plan
registered,
etc.
R.S.O. 1980,
c. 84

(15) Where a person conveys land or grants, assigns or exercises a power of appointment in respect of land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment in respect of, land abutting the land that is being conveyed or otherwise dealt with but this subsection does not apply to simultaneous conveyances or other simultaneous dealings involving the same parties acting in their same respective capacities.

Simultaneous
conveyances,
etc., of
abutting
lands

(16) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation.

Partial
discharges,
etc., effect of

(17) Subsection (16) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

Saving

- (a) is the same land in respect of which a consent to convey has previously been given;
- (b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4); or
- (c) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario, Ontario Hydro or by any municipality.

Foreclosure or exercise of power of sale, when approval of Minister required

(18) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

- (a) the whole of one or more lots or blocks within one or more registered plans of subdivision; or
- (b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge.

Release of interest by joint tenant or tenant in common

(19) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the rebutting land.

Order made under R.S.O. 1980, c. 369

(20) No order made under the *Partition Act* for the partition of land shall have any effect in law unless,

- (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or
- (b) a consent is given to the order.

Conveyance, etc., contrary to section not to create or convey interest in land

(21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condi-

tion contained therein that such agreement is to be effective only if the provisions of this section are complied with.

(22) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the Minister.

Copy of by-law to be lodged with Minister

(23) A by-law passed under subsection (4) is not effective until the requirements of subsection (24) have been complied with.

When by-law effective

(24) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office.

Registration of by-law

(25) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.

Notice

(26) The council shall hear in person or by his agent any person to whom a notice was sent under subsection (25), who within twenty days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law.

Hearing by council

50. —(1) An owner of land or his agent duly authorized in writing may apply to the Minister for approval of a plan of subdivision of his land or part thereof.

Application for approval of subdivision plan

(2) An applicant under subsection (1) shall provide as many copies as may be required by the Minister of a draft plan of the proposed subdivision drawn to scale and showing,

What draft plan to indicate

- (a) the boundaries of the land to be subdivided, certified by an Ontario land surveyor;
- (b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
- (c) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which he has an interest, every subdivision

adjacent to the proposed subdivision and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;

- (d) the purpose for which the lots are to be used;
- (e) the existing uses of all adjoining lands;
- (f) the approximate dimensions and layout of the proposed lots;
- (g) natural and artificial features such as buildings or other structures or installations, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land;
- (k) the municipal services available or to be available to the land proposed to be subdivided; and
- (l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided.

Minister may confer

(3) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the proposed subdivision.

What matters to be regarded

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to the following,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;

- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan generally conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy thereof;
- (f) the dimensions and shape of the lots;
- (g) 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;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and
- (l) the physical layout of the plan having regard to energy conservation.

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are reasonable, having regard to the nature of the development proposed for the subdivision and, in particular, but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

Dedication of land for park and highway purposes

- (a) that land to an amount to be determined by the Minister but not exceeding in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall

be dedicated for park or other public recreational purposes;

- (b) that such highways shall be dedicated as the Minister considers necessary;
- (c) when the subdivision abuts on an existing highway that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister considers necessary; and
- (d) that the owner of the land enter into one or more agreements with a municipality, or where the land is not in a municipality, with the Minister, dealing with such matters as the Minister may consider necessary, including the provision of municipal services.

Subdivision
agreements

(6) Every municipality and the Minister may enter into agreements imposed as a condition to the approval of a plan of subdivision and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

R.S.O. 1980,
cc. 445, 230

Alternative
requirement

(7) Where the Minister has imposed a condition under clause (5) (a) requiring land to be conveyed to the municipality and where the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes, the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality.

Cash
payment in
lieu of
conveyance

(8) Where the Minister has imposed a condition under clause (5) (a) requiring land to be conveyed to the municipality, the municipality may, in lieu of accepting such conveyance, require the payment of money by the owner of the land,

- (a) to the value of the land otherwise required to be conveyed; or
- (b) where the municipality would be entitled to require a conveyance under subsection (7), to the value of the

land that would otherwise be required to be so conveyed.

(9) For the purpose of determining the amount of any payment required under subsection (8), the value of the land shall be determined as of the day before the day of the draft approval of the plan and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of the *Expropriations Act*, determine the value of the land.

Valuation of land

R.S.O. 1980,
c. 148

(10) Land conveyed to a municipality pursuant to a condition imposed under subsection (5) shall be used for park or other public recreational purposes but may be sold at any time.

Use and sale of land

(11) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park or other public recreational purposes and may pay into the fund provided for in subsection (12) the sum so included in the estimates, and any person may pay any sum into the same fund.

Fund for acquisition of park lands

(12) All moneys received by the municipality under subsections (8) and (11) and all moneys received on the sale of land under subsection (10), less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recreational purposes, including the acquisition of machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account.

Special account

R.S.O. 1980,
c. 512

(13) The Minister may, subject to subsections (14) and (15), give or refuse to give his approval to a draft plan of subdivision.

Giving or refusing of approval by Minister

(14) Where the Minister proposes to refuse to give his approval to a draft plan of subdivision, the Minister shall send notice to the applicant together with written reasons as to why he proposes to refuse his approval and where the applicant does not, within sixty days of the sending of the notice, request

Reasons for refusal

the Minister to refer the draft plan to the Municipal Board, the approval of the Minister shall be deemed to have been refused.

Referral of
plan to
O.M.B.

(15) At any time before the Minister has given or has refused to give his approval to a draft plan of subdivision, the Minister may, and upon application therefor shall, refer the draft plan of subdivision to the Municipal Board unless, in his opinion, such request is not made in good faith, or is frivolous or vexatious or is made only for the purpose of delay and where the draft plan is referred to the Board the Board shall hear and determine the matter.

Reasons

(16) Where an application is made under subsection (15), the application shall be accompanied by written reasons in support thereof.

Reference of
conditions

(17) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions, imposed or to be imposed, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it.

Withdrawal
of approval

(18) The Minister may, in his discretion, withdraw his approval to a draft plan of subdivision or change the conditions of such approval at any time prior to his approval of a final plan for registration.

When draft
plan
approved
R.S.O. 1980,
cc. 493, 445,
230

(19) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with the *Surveys Act* and the *Registry Act* or the *Surveys Act* and the *Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor.

Approval
of plan by
Minister

(20) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

Withdrawal
of approval
of plan for
registration

(21) When a final plan for registration is approved under subsection (20) and is not registered within thirty days of the date of approval, the Minister may withdraw his approval.

(22) In addition to any requirement under the *Registry Act* or the *Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the land registrar a duplicate, or when required by the Minister two duplicates, of the plan of a type approved by the Minister, and the land registrar shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

Duplicates to be deposited and sent to Minister
R.S.O. 1980, cc. 445, 230

(23) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act.

Saving

51.—(1) No person shall subdivide and offer for sale, agree to sell or sell land by a description in accordance with an unregistered plan of subdivision, but this subsection does not prohibit any person from offering for sale or agreeing to sell land by a description in accordance with a plan of subdivision in respect of which draft approval has been given under section 50.

Sale of lands in accordance with unregistered plan prohibited

(2) In subsection (1), “unregistered plan of subdivision” does not include a reference plan of survey under section 149 of the *Land Titles Act* that complies with the regulations under that Act or a plan deposited under Part II of the *Registry Act* in accordance with the regulations under that Act.

Interpretation

52.—(1) An owner of land or his agent duly authorized in writing may apply for a consent as defined in subsection 49 (1) and the council or the Minister, as the case may be, may, subject to subsections (2) to (22) of this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.

Consent

(2) A council in dealing with applications for consent shall comply with such rules of procedure as are prescribed and a council or the Minister, as the case may be, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 50 (4) and has the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsection 50 (5), and subsections 50 (6), (7), (8), (9), (10) and (12) apply with necessary modifications.

Rules to be complied with and matters to be regarded

(3) Where, on the giving of a consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the pay-

Conveyance of land for park purposes

ment the value of the land shall be determined as of the day before the day of the giving of the consent.

Conferring
with
agencies, etc.

(4) A council, in determining whether a consent is to be given, shall confer with such agencies or persons as are prescribed.

Notice of
decision

(5) Where a decision is made by a council to give a consent, written notice of the decision, setting out the conditions, if any, imposed to the giving of the consent, shall be sent, not later than ten days from the making of the decision, to the applicant, to every agency or person conferred with under subsection (4) that in writing requested to be given notice of the decision, to any other person who in writing requested to be given notice of the decision and to the Minister, if the Minister has notified the council by registered mail that he wishes to receive a copy of all decisions made to give a consent.

Idem

(6) Where a decision is made by a council to refuse to give a consent, written notice of the decision shall be sent not later than ten days from the making of the decision to the applicant and to the agencies and persons mentioned in subsection (5), other than the Minister, together with written reasons for the decision.

Appeal to
O.M.B.

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent may within thirty days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Board under the *Ontario Municipal Board Act*.

R.S.O. 1980,
c. 347

Idem

(8) Where the applicant, the Minister or any agency or other person to whom notice of the decision was sent, is not satisfied as to the conditions or any of the conditions imposed by a council, he or it may within thirty days of the making of the decision appeal in respect of the conditions or any of the conditions by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal specifying the condition or conditions appealed and setting out written reasons in support of the appeal, accompanied by payment to the clerk of the fee prescribed by the Board under the *Ontario Municipal Board Act*.

Idem

(9) The clerk of the municipality upon receipt of a notice of appeal filed under subsection (7) or (8) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (7) or (8) to the Municipal Board by registered mail

together with all papers and documents filed with the council relating to the matter appealed from and such other documents and papers as may be required by the Board.

(10) The Minister in determining whether a consent is to be given shall confer with such officials, authorities, corporations, bodies or persons as the Minister considers may have an interest in the application and thereafter may, subject to subsections (11) to (19), give, or refuse to give, the consent.

Minister may confer with officials, etc.

(11) Where the Minister proposes to impose conditions to the giving of a consent, the Minister shall give written notice to the applicant specifying the conditions, and the Minister may change the conditions at any time prior to the giving of the consent.

Conditions

(12) Where the Minister proposes to refuse to give a consent, the Minister shall send notice to the applicant together with written reasons as to why it is proposed to refuse to give the consent and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the application for consent to the Municipal Board, the consent shall be deemed to have been refused.

Reasons for refusal to give consent

(13) At any time before written notice is given to an applicant under subsection (11) specifying conditions, the Minister may, and upon application therefor accompanied by written reasons in support thereof shall, refer the application for consent to the Municipal Board unless, in the opinion of the Minister, such request is not made in good faith, or is frivolous or vexatious or is made only for the purpose of delay, but in no event may an application for consent be referred to the Board after the Minister has given or refused to give the consent.

Referral to O.M.B.

(14) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions imposed or to be imposed by the Minister, he or it, at any time before the consent is given, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister.

Idem

(15) On an appeal to the Municipal Board under subsection (7) or where an application for a consent is referred to the Board under subsection (13) or where conditions are appealed or referred to the Board under subsection (8) or (14), the Board shall hold a hearing of which notice shall be given to such agencies or persons and in such manner as the Board may determine.

Hearing by O.M.B.

Dismissal of
appeal
without
hearing

(16) Despite subsection (15), the Municipal Board may, where it is of the opinion that the reasons in support of an appeal under subsection (7) or (8) are insufficient, dismiss the appeal without holding a full hearing, but before so dismissing the appeal, shall notify the appellant and afford him an opportunity to make representations as to the merits of the appeal.

Powers of
O.M.B.

(17) Following the hearing on an appeal under subsection (7) or a referral under subsection (13), the Municipal Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on a referral of conditions under subsection (8) or (14) the Board shall determine the question as to the condition or conditions referred to it.

Where
consent to be
given

(18) Where under subsection (17) the decision of the Municipal Board is that a consent be given, the council or the Minister, as the case may be, shall thereupon give the consent, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

Idem

(19) Where the decision of the council or the Minister on an application is to give a consent and there has been no appeal under subsection (7) or (8) and no referral under subsection (13) or (14), the consent shall be given, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

Where
conditions
not fulfilled

(20) Where conditions have been imposed and the applicant has not, within a period of one year from the giving of the notice mentioned in subsection (5) or (11), as the case may be, fulfilled the conditions, the application for consent shall thereupon be deemed to be refused.

Certificate
that consent
given

(21) When a consent has been given under this section, the clerk of the municipality, the council of which gave the consent or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, despite any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent but, where the authority to give consents has been delegated under section 53 to a land division committee or to a committee of adjustment, the certificate shall be given by the secretary-treasurer of the appropriate committee.

(22) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (21) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister, as the case may be, in giving the consent may provide for an earlier lapsing of the consent.

When consent lapses

(23) Where a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents any reference in this section to "the clerk of the municipality" shall be deemed to be a reference to the secretary-treasurer of such land division committee or committee of adjustment.

Reference to clerk deemed reference to secretary-treasurer

53.—(1) The council of a county or of a regional, metropolitan or district municipality, with the approval of the Minister, may, by by-law, delegate to the council of a constituent local or area municipality, as the case may be, the authority for the giving of consents under section 52 in respect of land situate in the local or area municipality.

Delegation of authority to give consents to constituent municipality

(2) Where authority is delegated to a council under subsection (1), such council may, in turn, by by-law, delegate the authority or any part of such authority, to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

Further delegation

(3) The Minister may, at any time, revoke the approval given under subsection (1) by giving written notice thereof to the clerk of the council that passed the delegating by-law and to the clerk of the council that received the delegated authority and when such notice is given the delegation is thereupon terminated except that all applications for consent made prior to the giving of the notice shall continue to be dealt with as if the delegation had not been terminated.

Withdrawal of delegated powers

(4) Except as delegated under subsection (1), the authority or any part of such authority of a council of a county or of a council of a regional, metropolitan or district municipality may be delegated by the council to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee.

Delegation to committee of council, etc.

(5) The council of a city that is not situate within a regional municipality or that is not situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford and the council of any other local municipality that is within a county but that does not form part of the county for municipal purposes may, by by-law, delegate the authority of the council under section 52 or any part of such

Idem

authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

Committee
of
adjustment

(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications and the provisions of subsections 44 (4) to (20) do not apply, in the exercise of that authority.

Conditions,
withdrawal

(7) A delegation of authority made by a council under this section may be subject to such conditions as the council by by-law provides and the council may by by-law withdraw the delegation of authority provided however, where authority delegated under subsection (1) is withdrawn, all applications for consent made prior to the withdrawal shall continue to be dealt with as if the delegation had not been withdrawn.

District land
division
committee,
delegation

54.—(1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 52 in respect of such lands situate in a territorial district as are defined in the order.

Conditions
and
withdrawal of
delegation

(2) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

Application
of s. 43

(3) Where the Minister has delegated his authority to a district land division committee under subsection (1), the provisions of subsections 43 (5), (6), (7), (8), (10) and (11) apply with necessary modifications.

Agreements

(4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 50 (6) apply with necessary modifications to any such agreement.

Remuner-
ation

(5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them.

Application
of fees

(6) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be paid into the Consolidated Revenue Fund.

55.—(1) The council of a county or of a regional, metropolitan or district municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable.

Land division committee

(2) The provisions of subsections 43 (2) to (11) apply, with necessary modifications, where a land division committee is constituted under subsection (1) of this section.

Application of s. 43 (2-11)

56.—(1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause 27 (1)(b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister.

Effect of contravention of R.S.O. 1970, c. 349, s. 29, etc., on conveyances made prior to March 19, 1973

(2) No order shall be made by the Minister under subsection (1) in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has by by-law requested the Minister to make such order, which such by-law the council is hereby empowered to pass.

Proviso

(3) A council may, as a condition to the passage of a by-law under subsection (2), impose such conditions in respect of any land described in the by-law as it considers appropriate.

Conditions

(4) Nothing in this section derogates from the power a council or the Minister has to grant consents referred to in section 52.

Proviso

PART VII

GENERAL

Application
of R.S.O.
1980, c. 302,
to acquisition
of land

57. The provisions of the *Municipal Act* apply to the acquisition of land under this Act.

Power to
clear, grade,
etc., lands
acquired

58. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held.

Exchange of
lands

59. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality.

Fair hearing

60. Where, in passing a by-law under this Act, a council is required by this Act, by the provisions of an official plan or otherwise by law, to afford any person an opportunity to make representation in respect of the subject-matter of the by-law, the council shall afford such person a fair opportunity to make representation but throughout the course of passing the by-law the council shall be deemed to be performing a legislative and not a judicial function.

Application
of Act to
Ontario
Hydro

61.—(1) Except as provided in sections 3, 6 and 47 and subsection (2) of this section, this Act does not affect Ontario Hydro.

Idem

(2) Land and buildings owned by Ontario Hydro and used for executive, administrative or retail purposes or held under lease or licence from Ontario Hydro and, unless approved under the *Environmental Assessment Act*, any other undertaking of Ontario Hydro, are subject to this Act.

R.S.O. 1980,
c. 140

Effect of
approval or
consent of
O.M.B.

62.—(1) Where a matter is referred to the Municipal Board under this Act, the approval or consent of the Board has the same force and effect as if it were the approval or consent of the Minister or the council of a municipality.

Deemed
compliance
with Act

(2) Where an approval or consent is given under this Act, the provisions of this Act leading to such approval or consent shall be deemed to have been complied with.

Non-
application of
R.S.O. 1980,
c. 347, s. 94

63. Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter referred or appealed to the Board under this Act.

64. When under this Act the Minister has referred a matter to the Municipal Board, the matter may be taken back from the Board by the Minister at any time prior to a decision in respect thereof having been made by the Board, but where a matter has been referred to the Board pursuant to the request of any person, the matter shall not be taken back from the Board by the Minister except on the further request of such person and with the concurrence of all other persons, if any, who had requested that the matter be referred to the Board.

Resumption
by Minister
of matters
referred to
O.M.B.

65. Where the Minister or the council of a municipality delegates under this Act the authority to give an approval or consent, an approval or consent given under the authority has the same force and effect as if it were the approval or consent of the Minister or the council, as the case may be.

Effect of
approval or
consent
under
delegated
authority

66.—(1) Every person who contravenes section 40, 45 or 51 or who contravenes a by-law passed under section 34 or 37 or an order made under section 46 is guilty of an offence and on conviction is liable,

Penalty

- (a) on a first conviction to a fine of not more than \$20,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.

(2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed is,

Corporation

- (a) on a first conviction a fine of not more than \$50,000; and
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,

and not as provided in subsection (1).

(3) Where a conviction is entered under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.

Order of
prohibition

Saving
R.S.O. 1980,
c. 31, s. 57

67.—(1) Despite section 57 of the *Assessment Act*, it is not an offence to disclose the information referred to therein to any employee of a municipality who declares that such information is required in the course of his planning duties.

Offence

(2) An employee of a municipality who wilfully discloses or permits to be disclosed the information referred to in subsection (1) to any other person not likewise entitled in the course of his duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or to imprisonment for a term of not more than six months, or to both.

Exception

(3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration.

Tariff of fees

68.—(1) The council of a municipality may by by-law prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality in respect of the processing of each type of application provided for in the tariff.

Reduction or
waiver of fees

(2) Notwithstanding that a tariff of fees is prescribed under subsection (1) the council of a municipality, a committee of adjustment or a land division committee in processing an application may reduce the amount of, or waive the requirement for the payment of a fee in respect of the application where the council or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

Payment
under
protest:
appeal to
O.M.B.

(3) Any person who is required to pay a fee for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Municipal Board against the levying of the fee or the amount of the fee by giving written notice of appeal to the Municipal Board within thirty days of payment of the fee.

Hearing

(4) The Municipal Board shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Board determines.

Regulations

69. The Lieutenant Governor in Council may make regulations,

- (a) prescribing for the purposes of subsection 17 (2), 28 (4) or 34 (12), the persons that are to be given notice and the manner in which notice is to be given;
- (b) prescribing for the purposes of subsection 34 (17), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;
- (c) prescribing for the purposes of subsection 35(4), 37 (3) or 44 (5), the persons and agencies that are to be given notice, the manner in which notice is to be given and the information that must be contained therein;
- (d) providing for the charging of a fee on any application made in respect of a planning matter to a planning board that has had authority delegated to it by the Minister;
- (e) prescribing for the purposes of subsection 43 (11), rules of procedure for committees of adjustment;
- (f) prescribing for the purposes of subsection 52 (2), rules of procedure for councils and delegates thereof;
- (g) prescribing rules of procedure for district land division committees constituted under section 54;
- (h) prescribing agencies or persons for the purposes of subsection 52 (4); and
- (i) prescribing for the purposes of subsection 44 (11), the additional information and material required to be sent to the Minister.

70. In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail. Conflict

71.—(1) Except as provided in subsection (2), every official plan that is in effect immediately before the day this Act comes into force shall remain in effect but may be amended or repealed in accordance with this Act. Official plans remain in effect

(2) Unless continued in force by an order made by the Minister under subsection (3), every official plan of a joint planning area, other than an official plan that was adopted by the council of a county and other than an official plan of a joint planning area in a territorial district, that is in effect immediately before Repeal of joint official plans

the day this Act comes into force shall be deemed to be repealed two years from that day, if not sooner repealed.

Continuation
of joint
official plans

(3) The Minister may by order provide for the remaining in force of any joint official plan or part or parts thereof that would otherwise be deemed to be repealed under subsection (2) and in such order may make such provision for the effectual continuation of such plan or the part or parts thereof as he considers necessary, including provision for the allocation of the plan or part or parts thereof to any local municipality or country situate wholly or partly within the area to which the plan applies.

Amendment
or repeal

(4) At any time during the two year period mentioned in subsection (2), the Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan.

Planning
areas and
boards
dissolved

72.—(1) Except as provided in subsection (3), on the day this Act comes into force all planning areas including joint planning areas and subsidiary planning areas together with the planning boards thereof are dissolved.

Assets and
liabilities

(2) All the assets and liabilities of a planning board dissolved by this section are, in the case of a planning board of a planning area consisting of part or all of one municipality, assets and liabilities of such municipality and in the case of a planning board of a joint planning area, assets and liabilities of the municipalities that form part of the joint planning area and if such municipalities cannot agree as to the disposition of the assets and liabilities, the Municipal Board, upon the application of one or more of the municipalities, shall direct a final disposition thereof.

Planning
areas that are
continued

(3) Each planning area that immediately before the day this Act comes into force consists of the whole of two or more municipalities that are situate in a territorial district or consists of the whole of one or more municipalities and territory without municipal organization or consists solely of territory without municipal organization shall continue as a planning area under this Act without any change in name until altered or dissolved by the Minister.

Planning
boards that
are continued

(4) Each planning board of a planning area mentioned in subsection (3) shall continue as a planning board under this Act without any change in name or constitution until the planning area is dissolved or the name or constitution of the planning board is changed by the Minister.

(5) Persons who immediately before the day this Act comes into force are members of a planning board mentioned in subsection (4) shall remain in office until the expiry of the term of the council that appointed them and until their successors have been appointed under this Act.

Members of
planning
boards that
remain in
office

73.—(1) The *Planning Act*, except section 40, being chapter 379 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

(2) Section 40 of the said Act is repealed.

Idem

74.—(1) In this section, “former Act” means the *Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980.

Interpre-
tation

(2) Despite section 73, any matter or proceeding mentioned in subsection (3) that has been commenced under the former Act before the day this Act comes into force shall be continued and finally disposed of under the former Act.

Matters, etc.,
continued
under
R.S.O. 1980,
c. 379

(3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced, in the case of,

When
matters, etc.,
deemed
commenced

- (a) an official plan or an amendment thereto or a repeal thereof, on the day the by-law adopting the plan or adopting or proposing the amendment or repeal of the plan is passed;
- (b) a request under subsection 17 (3) of the former Act, on the day the request is made;
- (c) redevelopment under section 22 of the former Act, on the day the by-law designating the redevelopment area is passed;
- (d) subdivision of land under section 36 of the former Act, on the day the application is made under subsection (1) of that section;
- (e) a zoning by-law or an amendment thereto, on the day the by-law is passed;
- (f) an application under subsection 39 (23) of the former Act, on the day the application is made;
- (g) development in a site plan control area, on the day the application is made under subsection 40 (4) of the former Act;

- (h) an application made to a committee of adjustment, a land division committee or planning board for a planning area in a territorial district, on the day the application is made; and
- (i) an application to the Minister for a consent under section 29 of the former Act, on the day the application is made.

Commence-
ment

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

Short title

76. The short title of this Act is the *Planning Act, 1983*.



2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Gasoline Handling Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The new provision authorizes the making of regulations requiring the payment of an application fee and attaching of terms to an application.

BILL 160

1982

An Act to amend the Gasoline Handling Act

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

1. Section 15 of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is amended by adding thereto ^{s. 15,} _{amended} the following clause:
 - (m) requiring the payment of an application fee when applying for a licence or registration and prescribing the amount of the fee and the terms applying to an application for a licence or registration.
2. This Act comes into force on the day it receives Royal Assent. ^{Commence-} _{ment}
3. The short title of this Act is the *Gasoline Handling Amendment Act, 1982*. ^{Short title}

An Act to amend
the Gasoline Handling Act

1st Reading

June 24th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Solicitors Act

THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTE

The section replaced permits solicitors to charge interest at the rate of 5 per cent on unpaid accounts.

The new provision permits interest on unpaid accounts to be charged at the same rate as is applicable in actions for the recovery of money and provides for interest at the same rate on money refundable on the overpayment of accounts.

An Act to amend the Solicitors Act

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

1. Section 35 of the *Solicitors Act*, being chapter 478 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 35, re-enacted

35.—(1) A solicitor may charge interest on unpaid fees, charges or disbursements, calculated from a date that is one month after the bill is delivered under section 2. Interest on unpaid accounts

(2) Where on a taxation of a solicitor's bill of fees, charges and disbursements it appears that the client has overpaid the solicitor, the client is entitled to interest on the overpayment calculated from the date when the overpayment was made. Interest on overpayment of accounts

(3) The rate of interest chargeable under subsection (1) or (2) shall not exceed the rate that is established by section 36 of the *Judicature Act* in respect of an action that is commenced on the day the bill is delivered, or the overpayment is made, as the case may be. Rate of interest
R.S.O. 1980,
c. 223

(4) The rate of interest applicable to a bill shall be shown on the bill delivered. Idem

(5) On the taxation of a solicitor's bill, the taxing officer may, where he considers it to be just to do so in all the circumstances, Variation of rate on taxation

(a) disallow interest; or

(b) fix a rate of interest that is less than the maximum rate authorized by this section,

in respect of the whole or any part of the amount allowed on the taxation.

Application
to accounts
before section
comes into
force
1982, c. . . .

(6) This section applies to money owing on a bill or in respect of the overpayment of a bill, notwithstanding that the debt was incurred before section 1 of the *Solicitors Amendment Act, 1982* came into force, but in that case,

- (a) the bill must be delivered or redelivered after that date and the date of such delivery is the date of delivery for the purposes of subsections (1) and (3); and
- (b) the interest on an overpayment shall be calculated from that date.

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 *Solicitors Amendment Act, 1982*.







An Act to amend
the Solicitors Act

1st Reading

June 24th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURRY
Attorney General

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Education Act

MR. MARTEL

EXPLANATORY NOTE

The purpose of the Bill is to authorize the apportionment of school rates between public and separate schools in the case of a mixed marriage where the husband and wife own or lease rateable property jointly.

BILL 162

1982

An Act to amend the Education Act

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

1. Section 125 of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 125,
amended

(3) Where more than one owner or tenant is the occupant or tenant of land, each owner or tenant shall be deemed to be a person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes and, in such case, the owners or tenants who are primarily liable for the payment of school rates may determine that the application of the rates shall be apportioned between public and separate school purposes. Joint
ownership,
tenancy,
etc.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Education Amendment Act, 1982*. Short title

An Act to amend the Education Act

1st Reading

June 24th, 1982

2nd Reading

3rd Reading

MR. MARTEL

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Agricultural Societies Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTIONS 1, 2, 3. Under the recent reorganization of the Ministry of Agriculture and Food, the Agricultural and Horticultural Societies Branch of the Ministry was included in the Rural Organizations and Services Branch of the Ministry. The amendments proposed under sections 1 to 3 of the Bill reflect this recent reorganization.

SECTION 4. Under the proposed re-enactment of subsection 11 (2) of the Act, the officers of a society will be allowed ninety days from the day of the annual meeting to file the society's annual returns with the Director.

Subsection 11 (3) of the Act as it now reads, is set out below, showing underlined the words that will be deleted by the re-enactment:

- (3) *Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition or sponsors an amateur program, using local talent to provide entertainment, and such display, competition, or amateur program is approved by the Superintendent, the officers of the society shall within ninety days thereafter forward to the Superintendent on a form supplied by the Ministry a statement showing the particulars of the display, competition or amateur program including, where applicable, the number of entries and the expenditures, including prizes awarded, in connection therewith.*

The proposed subsection (3a) will require that the statement of officers and members of the society set out the names and addresses of its directors and officers. This information will be available to the public. This will eliminate the need for filings under the *Corporations Information Act* and, accordingly, under section 4 of the Bill, it is proposed that the Act be amended to provide that the *Corporations Information Act* not apply to societies.

An Act to amend the Agricultural Societies Act

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

- 1.—(1) Section 1 of the *Agricultural Societies Act*, being chapter 14 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1, amended
- (aa) “Director” means the person appointed as the Director under section 1a.
- (2) Clause 1 (f) of the said Act is repealed. s. 1 (f), repealed
2. The said Act is amended by adding thereto the following section: s. 1a, enacted
- 1a. The Minister may appoint an officer of the Ministry to be the Director for the purposes of this Act. Director
3. Sections 2, 4, 5, 7 and 9, subsection 11 (1) and sections 14, 16, 20, 24 and 25 of the said Act are amended by striking out “Superintendent” wherever it occurs and inserting in lieu thereof in each instance “Director”. ss. 2, 4, 5, 7, 9, 11 (1), 14, 16, 20, 24, 25, amended
4. Subsections 11 (2) and (3) of the said Act are repealed and the following substituted therefor: s. 11 (2, 3), re-enacted
- (2) The officers of every society shall, within ninety days of the holding of the society’s annual meeting, forward to the Director a return in the form prescribed by the Minister verified by an affidavit of an officer of the society showing the amount expended during the previous year by the society for agricultural purposes. Annual returns
- (3) Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition or sponsors an amateur program, using local talent to provide entertainment, the officers of the society shall within ninety days thereafter forward to the Director on a form supplied Statement as to competitions, etc.

by the Ministry a statement showing the particulars of the display, competition or amateur program including, where applicable, the number of entries and the expenditures, including prizes awarded, in connection therewith.

Information to be made available to public

(3a) The statement of officers and members referred to in subsection (1) shall, in addition to any other information that may be required, set out the names and residence addresses of the directors and officers of the society and such names and addresses shall be made available to the public by the Director.

s. 20, amended

- 5.** Section 20 of the said Act is amended by adding thereto the following subsection:

(3) The *Corporations Information Act* does not apply to a society.

Non-application of R.S.O. 1980, c. 96

s. 24 (1), par. 3, subpar. iii, re-enacted

- 6.** Subparagraph iii of paragraph 3 of subsection 24 (1) of the said Act is repealed and the following substituted therefor:

iii. no society shall in any year receive a grant in excess of \$2,000.

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 *Agricultural Societies Amendment Act, 1982*.

SECTION 5. The proposed subsection 20 (3) provides that the *Corporations Information Act* does not apply to a society.

SECTION 6. The maximum grant that a society may receive under paragraph 3 of subsection 24 (1) of the Act is increased from \$1,500 to \$2,000.

An Act to amend the
Agricultural Societies Act

1st Reading

June 25th, 1982

2nd Reading

3rd Reading

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

(Government Bill)

BILL 163

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Agricultural Societies Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food



An Act to amend the Agricultural Societies Act

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

- 1.—(1) Section 1 of the *Agricultural Societies Act*, being chapter 14 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1, amended
- (aa) “Director” means the person appointed as the Director under section 1a.
- (2) Clause 1 (f) of the said Act is repealed. s. 1 (f), repealed
2. The said Act is amended by adding thereto the following section: s. 1a, enacted
- 1a. The Minister may appoint an officer of the Ministry to be the Director for the purposes of this Act. Director
3. Sections 2, 4, 5, 7 and 9, subsection 11 (1) and sections 14, 16, 20, 24 and 25 of the said Act are amended by striking out “Superintendent” wherever it occurs and inserting in lieu thereof in each instance “Director”. ss. 2, 4, 5, 7, 9, 11 (1), 14, 16, 20, 24, 25, amended
4. Subsections 11 (2) and (3) of the said Act are repealed and the following substituted therefor: s. 11 (2, 3), re-enacted
- (2) The officers of every society shall, within ninety days of the holding of the society’s annual meeting, forward to the Director a return in the form prescribed by the Minister verified by the Minister as to Annual returns
 an affidavit of an officer of the society showing the amount expended during the previous year by the society for agricultural purposes.
- (3) Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition or sponsors an amateur program, using local talent to provide entertainment, the officers of the society shall within ninety days thereafter forward to the Director on a form supplied Statement as to competitions, etc.

by the Ministry a statement showing the particulars of the display, competition or amateur program including, where applicable, the number of entries and the expenditures, including prizes awarded, in connection therewith.

Information to be made available to public

(3a) The statement of officers and members referred to in subsection (1) shall, in addition to any other information that may be required, set out the names and residence addresses of the directors and officers of the society and such names and addresses shall be made available to the public by the Director.

s. 20, amended

- 5.** Section 20 of the said Act is amended by adding thereto the following subsection:

Non-application of R.S.O. 1980, c. 96

(3) The *Corporations Information Act* does not apply to a society.

s. 24 (1), par. 3, subpar. iii, re-enacted

- 6.** Subparagraph iii of paragraph 3 of subsection 24 (1) of the said Act is repealed and the following substituted therefor:

iii. no society shall in any year receive a grant in excess of \$2,000.

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 *Agricultural Societies Amendment Act, 1982*.







An Act to amend the
Agricultural Societies Act

1st Reading

June 25th, 1982

2nd Reading

October 19th, 1982

3rd Reading

November 2nd, 1982

THE HON. D. R. TIMBRELL,
Minister of Agriculture and Food

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Horticultural Societies Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTIONS 1 AND 2. Under the recent reorganization of the Ministry of Agriculture and Food, the Agricultural and Horticultural Societies Branch of the Ministry was included in the Rural Organizations and Services Branch of the Ministry. The amendments reflect the recent reorganization.

SECTION 3. The proposed re-enactment of subsection 3 (2) of the Act provides that there may be one horticultural society for every 25,000 people living in a local municipality. At present, there may only be one society for each 100,000 of population.

SECTION 4. The re-enactment of clause (b) of paragraph 7 of section 4 of the Act replaces the expression "junior director" with the expression "youth director".

SECTION 5. The proposed subsections 5 (2) and (3) provide for the naming of societies.

BILL 164

1982

An Act to amend the Horticultural Societies Act

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

1. Clause 1 (b) of the *Horticultural Societies Act*, being chapter 204 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (b),
re-enacted
 - (b) "Director" means the person appointed as the Director under section 1a.
2. The said Act is amended by adding thereto the following section: s. 1a,
enacted
 - 1a. The Minister may appoint an officer of the Ministry to be the Director for the purposes of this Act. Director
3. Subsection 3 (2) of the said Act is repealed and the following substituted therefor: s. 3 (2),
re-enacted
 - (2) In a local municipality having a population of not less than 25,000 there may be two societies and for each additional 25,000 of population there may be an additional society. Additional
societies
4. Clause (b) of paragraph 7 of section 4 of the said Act is repealed and the following substituted therefor: s. 4, par. 7,
cl. (b),
re-enacted
 - (b) where the Director has so authorized, there may be elected not more than five additional directors and not more than five youth directors and no person is eligible for election as a youth director who, at the time of the election, is more than twenty-six years of age.
5. Section 5 of the said Act is amended by adding thereto the following subsections: s. 5,
amended
 - (2) A society shall bear the name designated in the declaration or such other name as is determined by the members and approved by the Minister. Name

- Idem (3) In case of a dispute as to the name of a society or in a case where in the opinion of the Minister the name of a society prejudicially affects the interest of another society he may change the name of the society.
- s. 10 (1), re-enacted **6.** Subsection 10 (1) of the said Act is repealed and the following substituted therefor:
- Annual meeting: (1) Every society shall hold a meeting annually during the month of January, November or December or such other month as the Director approves at such time and place as the board determines.
- s. 13, amended **7.** Section 13 of the said Act is amended by adding thereto the following subsection:
- Information to be made available to public (2a) The statement of officers and members referred to in subsection (1) shall, in addition to any other information that may be required, set out the address of the head office, if any, and the names and residence addresses of the directors and officers of the society and such names and addresses shall be made available to the public by the Director and where the society does not have a head office, the statement shall set out the address where the books and records of the society are kept and the name of the person responsible for the custody of the books and records.
- s. 17a, enacted **8.** The said Act is further amended by adding thereto the following section:
- Incorporation 17a.—(1) Every society, whether organized before or after the coming into force of this section, is a body corporate.
- Non-application of R.S.O. 1980, c. 96 (2) The *Corporations Information Act* does not apply to a society.
- Commencement **9.** This Act comes into force on the day it receives Royal Assent.
- Short title **10.** The short title of this Act is the *Horticultural Societies Amendment Act, 1982*.

SECTION 6. The proposed re-enactment of subsection 10 (1) of the Act authorizes societies to hold their annual meetings in January, November or December without obtaining the approval of the Director. At present, the meeting must be held in January unless the approval of the Director is obtained.

SECTION 7. The proposed subsection 13 (2a) will require that the statement of officers and members of a society set out the names and addresses of its directors and officers. This information will be available to the public. This will eliminate the need for filings under the *Corporations Information Act*. The statement must also set out the head office address of the society. If there is no head office, the name and address of the person who has custody of the books and records must be set out.

SECTION 8. The proposed section 17a has the effect of incorporating every society.



An Act to amend the
Horticultural Societies Act

1st Reading

June 25th, 1982

2nd Reading

3rd Reading

THE HON. D. R. TIMBELL
Minister of Agriculture and Food

(Government Bill)

BILL 164

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Horticultural Societies Act

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

BILL 164

1982

An Act to amend the Horticultural Societies Act

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

1. Clause 1 (b) of the *Horticultural Societies Act*, being chapter 204 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (b),
re-enacted
 - (b) "Director" means the person appointed as the Director under section 1a.
2. The said Act is amended by adding thereto the following section: s. 1a,
enacted
 - 1a. The Minister may appoint an officer of the Ministry to be Director the Director for the purposes of this Act.
3. Subsection 3 (2) of the said Act is repealed and the following substituted therefor: s. 3 (2),
re-enacted
 - (2) In a local municipality having a population of not less than 25,000 there may be two societies and for each additional 25,000 of population there may be an additional society. Additional
societies
4. Clause (b) of paragraph 7 of section 4 of the said Act is repealed and the following substituted therefor: s. 4, par. 7,
cl. (b),
re-enacted
 - (b) where the Director has so authorized, there may be elected not more than five additional directors and not more than five youth directors and no person is eligible for election as a youth director who, at the time of the election, is more than twenty-six years of age.
5. Section 5 of the said Act is amended by adding thereto the following subsections: s. 5,
amended
 - (2) A society shall bear the name designated in the declaration Name or such other name as is determined by the members and approved by the Minister.

- Idem (3) In case of a dispute as to the name of a society or in a case where in the opinion of the Minister the name of a society prejudicially affects the interest of another society he may change the name of the society.
- s. 10 (1), re-enacted **6.** Subsection 10 (1) of the said Act is repealed and the following substituted therefor:
- Annual meeting: (1) Every society shall hold a meeting annually during the month of January, November or December or such other month as the Director approves at such time and place as the board determines.
- s. 13, amended **7.** Section 13 of the said Act is amended by adding thereto the following subsection:
- Information to be made available to public (2a) The statement of officers and members referred to in subsection (1) shall, in addition to any other information that may be required, set out the address of the head office, if any, and the names and residence addresses of the directors and officers of the society and such names and addresses shall be made available to the public by the Director and where the society does not have a head office, the statement shall set out the address where the books and records of the society are kept and the name of the person responsible for the custody of the books and records.
- s. 17a, enacted **8.** The said Act is further amended by adding thereto the following section:
- Incorporation 17a.—(1) Every society, whether organized before or after the coming into force of this section, is a body corporate.
- Non-application of R.S.O. 1980, c. 96 (2) The *Corporations Information Act* does not apply to a society.
- Commencement **9.** This Act comes into force on the day it receives Royal Assent.
- Short title **10.** The short title of this Act is the *Horticultural Societies Amendment Act, 1982*.





An Act to amend the
Horticultural Societies Act

1st Reading

June 25th, 1982

2nd Reading

October 19th, 1982

3rd Reading

November 2nd, 1982

THE HON. D. R. TIMBRELL
Minister of Agriculture and Food

BILL 165

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to Control Empire-Building in Government

MR. REID
(Rainy River)

EXPLANATORY NOTE

The Bill is intended to provide a public review mechanism to control empire-building in the public service and in Crown agencies.

BILL 165

1982

An Act to Control Empire-Building in Government

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, “empire-building” means an unjustified ^{Interpretation} increase in the numbers, salaries or jurisdiction of,

- (a) the public service or a part of the public service; or
- (b) the staff or a part of the staff of a Crown agency, board, commission or corporation.

2.—(1) The Public Accounts Committee may of its own ^{Committee may} motion investigate any instance of apparent empire-building. ^{investigate}

(2) Where, after conducting an investigation under subsection ^{Committee's} (1), the Public Accounts Committee is satisfied that a person has ^{recommenda-} engaged in empire-building, it shall report the matter to the ^{tions and} Assembly and recommend that the person be dismissed or be ^{report} suspended, disciplined or reprimanded in such manner as the Committee directs.

3. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

4. The short title of this Act is the *Empire-Building Control* ^{Short title} Act, 1982.

An Act to Control
Empire-Building in Government

1st Reading

June 29th, 1982

2nd Reading

3rd Reading

MR. REID
(Rainy River)

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to establish the Ministry of Science, Technology
and Productivity**

MR. REID
(Rainy River)

EXPLANATORY NOTE

The Bill establishes the Ministry of Science, Technology and Productivity, whose objectives are set out in section 3 of the Bill.

BILL 166

1982

An Act to establish the Ministry of Science, Technology and Productivity

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) "Deputy Minister" means the Deputy Minister of Science, Technology and Productivity;
- (b) "Minister" means the Minister of Science, Technology and Productivity;
- (c) "Ministry" means the Ministry of Science, Technology and Productivity.

2. There shall be a ministry of the public service to be known as the Ministry of Science, Technology and Productivity.

Ministry
established

3. The duties and responsibilities of the Minister are,

Minister's
duties and
responsi-
bilities

- (a) the promotion of science and research;
- (b) the advancement of technology and of the understanding of technology; and
- (c) the development of incentives and other measures for improvements in productivity,

in the public and private sectors, and such other duties and responsibilities as are assigned to the Minister by an Act or by the Lieutenant Governor in Council.

4. The Minister is responsible for the administration of this Act.

Administration
of Act

Deputy
Minister
of Science,
Technology
and
Productivity

5.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Science, Technology and Productivity who shall be the deputy head of the Ministry.

Idem

(2) Under the direction of the Minister, the Deputy Minister shall perform such duties as the Minister assigns or delegates to him.

Seal

6.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed.

Commence-
ment

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

Short title

8. The short title of this Act is the *Ministry of Science, Technology and Productivity Act, 1982*.





An Act to establish the Ministry of
Science, Technology and Productivity

1st Reading

June 29th, 1982

2nd Reading

3rd Reading

MR. REID
(Rainy River)

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the
Formulation and Implementation of Emergency Plans**

THE HON. G. TAYLOR
Solicitor General

EXPLANATORY NOTE

The Bill provides for the formulation and implementation of emergency plans.

BILL 167

1982

An Act to provide for the Formulation and Implementation of Emergency Plans

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

1. In this Act,

Interpre-
tation

- (a) "council of a municipality" includes the board of an improvement district;
- (b) "Crown employee" means a Crown employee within the meaning of the *Public Service Act*; R.S.O. 1980,
c. 418
- (c) "emergency" means a situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a danger of major proportions to life or property;
- (d) "emergency area" means the area in which an emergency exists;
- (e) "emergency plan" means a plan formulated under section 3, 5 or 7;
- (f) "employee of a municipality" means an employee as defined in paragraph 46 of section 208 of the *Municipal Act*; R.S.O. 1980,
c. 302
- (g) "head of council" includes a chairman of the board of an improvement district;
- (h) "local board" means a local board as defined in the *Municipal Affairs Act*; R.S.O. 1980,
c. 303
- (i) "local services board" means a Local Services Board established under the *Local Services Boards Act*; R.S.O. 1980,
c. 252

(j) “member of council” includes a trustee of the board of an improvement district;

(k) “municipality” means a city, town, village, township and improvement district and includes a district, regional and metropolitan municipality and the County of Oxford.

Administra-
tion of Act

2. The Solicitor General is responsible for the administration of this Act.

Municipal
emergency
plan

3.—(1) The council of a municipality may pass a by-law formulating or providing for the formulation of an emergency plan governing the provision of necessary services during an emergency and the procedures under and the manner in which employees of the municipality and other persons will respond to the emergency.

Moneys

(2) A by-law passed under subsection (1) may provide for moneys associated with the formulation and implementation of the emergency plan.

Powers of
head of
council

(3) The head of council may declare that an emergency exists in the municipality or in any part thereof and may take such action and make such orders as he considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

Declaration
as to
termination
of emergency

(4) The head of council or the council of a municipality may at any time declare that an emergency has terminated.

Solicitor
General
to be
notified

(5) The head of council shall ensure that the Solicitor General is notified forthwith of a declaration made under subsection (3) or (4).

Premier may
declare
emergency
terminated

(6) The Premier of Ontario may at any time declare that an emergency has terminated.

Emergency
plan may be
required

(7) The Lieutenant Governor in Council may designate municipalities that shall have an emergency plan respecting the type of emergency specified in the designation and, where so designated, a municipality shall formulate or provide for the formulation of the emergency plan.

Where
emergency
plan to have
no effect

4. Where the council of a district, regional or metropolitan municipality or the County of Oxford has an emergency plan, an emergency plan of an area municipality in the district, regional

or metropolitan municipality or the County of Oxford, as the case may be, shall conform to the emergency plan of the district, regional or metropolitan municipality or the County of Oxford, as the case may be, and has no effect to the extent of any inconsistency.

5.—(1) It is the responsibility of,

Emergency
plans of
provincial
government
bodies

(a) each minister of the Crown presiding over a ministry of the Government of Ontario; and

(b) each agency, board, commission or other branch of government designated by the Lieutenant Governor in Council,

to formulate an emergency plan for the ministry or branch of government, as the case may be, in respect of the type of emergency assigned to it by the Lieutenant Governor in Council, governing the provision of necessary services during an emergency and the procedures under and the manner in which Crown employees and other persons will respond to the emergency.

(2) The Lieutenant Governor in Council shall appoint an Emergency Planning Co-ordinator who, under the direction of the Solicitor General, shall be responsible for monitoring, co-ordinating and assisting in the formulation and implementation of emergency plans under this section and section 7 and ensuring that such plans are co-ordinated in so far as possible with emergency plans of municipalities and the Government of Canada and its agencies.

Emergency
Planning
Co-ordinator

6.—(1) The Premier of Ontario may declare that an emergency exists throughout Ontario or in any part thereof and may take such action and make such orders as he considers necessary and are not contrary to law to implement the emergency plans formulated under section 5 or 7 and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

Declaration
of emergency

(2) For the purposes of subsection (1), the Premier of Ontario may exercise any power or perform any duty conferred upon a minister of the Crown or a Crown employee by or under an Act of the Legislature.

Power of
Premier

(3) Where a declaration is made under subsection (1) and the emergency area or any part thereof is within the jurisdiction of a municipality, the Premier of Ontario may, where he considers it necessary, direct and control the administration, facilities and equipment of the municipality to ensure the provision of necessary services in the emergency area, and, without restricting the generality of the foregoing, the exercise by the municipality of its

Emergency
powers

powers and duties in the emergency area, whether under an emergency plan or otherwise, is subject to the direction and control of the Premier.

Assistance

(4) The Premier of Ontario may require any municipality to provide such assistance as he considers necessary to an emergency area or any part thereof that is not within the jurisdiction of the municipality, and may direct and control the provision of such assistance, and the Lieutenant Governor in Council may authorize the payment of the cost thereof out of the Consolidated Revenue Fund.

Premier may designate minister

(5) Where the Premier of Ontario makes a declaration under subsection (1), he may designate a minister of the Crown to exercise the powers conferred on the Premier by subsections (1), (2), (3) and (4).

Counties, local boards and local services boards included

(6) For the purposes of this section, "municipality" includes a local board of a municipality, a county and a local services board.

Lieutenant Governor in Council to formulate plan

7. The Lieutenant Governor in Council shall formulate an emergency plan respecting emergencies arising in connection with nuclear facilities, and any provisions of an emergency plan of a municipality respecting such an emergency shall conform to the plan formulated by the Lieutenant Governor in Council and are subject to the approval of the Solicitor General and the Solicitor General may make such alterations as he considers necessary for the purpose of co-ordinating the plan with the plan formulated by the Lieutenant Governor in Council.

What plan may provide

8. An emergency plan may,

- (a) in the case of a municipality, authorize employees of the municipality or, in the case of a plan formulated under section 5 or 7, authorize Crown employees to take action under the emergency plan where an emergency exists but has not yet been declared to exist;
- (b) specify procedures to be taken for the safety or evacuation of persons in an emergency area;
- (c) in the case of a municipality, designate one or more members of council who may exercise the powers and perform the duties of the head of council under this Act or the emergency plan during the absence of the head of council or his inability to act;
- (d) establish committees and designate employees to be responsible for reviewing the emergency plan, training

employees in their functions and implementing the emergency plan during an emergency;

- (e) provide for obtaining and distributing materials, equipment and supplies during an emergency; and
- (f) provide for such other matters as are considered necessary or advisable for the implementation of the emergency plan during an emergency.

9. An emergency plan formulated under section 3, 5 or 7 shall be made available to the public for inspection and copying during ordinary business hours at an office of the municipality, ministry or branch of government, as the case may be. Public access to plans

10.—(1) No action or other proceeding for damages lies or shall be instituted against a member of council, an employee of a municipality, a minister of the Crown or a Crown employee for doing any act or neglecting to do any act in good faith in the implementation or intended implementation of an emergency plan or in connection with an emergency. Protection from personal liability

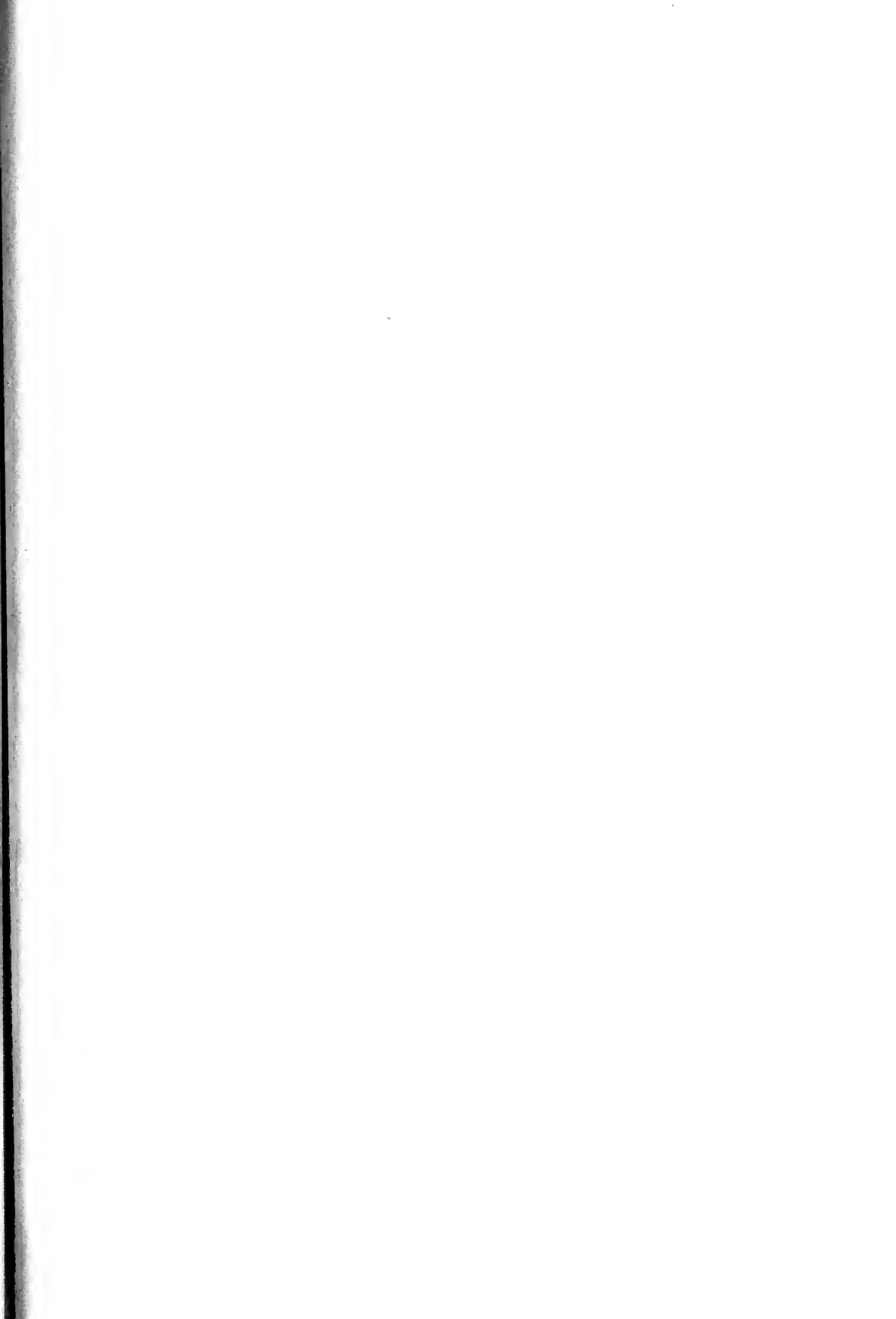
(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability for the acts or omissions of a minister of the Crown or a Crown employee referred to in subsection (1) and the Crown is liable under that Act as if subsection (1) had not been enacted. Crown not relieved of liability R.S.O. 1980, c. 393

(3) Subsection (1) does not relieve a municipality of liability for the acts or omissions of a member of council or an employee of the municipality referred to in subsection (1), and the municipality is liable as if subsection (1) had not been enacted and, in the case of a member of council, as if the member were an employee of the municipality. Municipality not relieved of liability

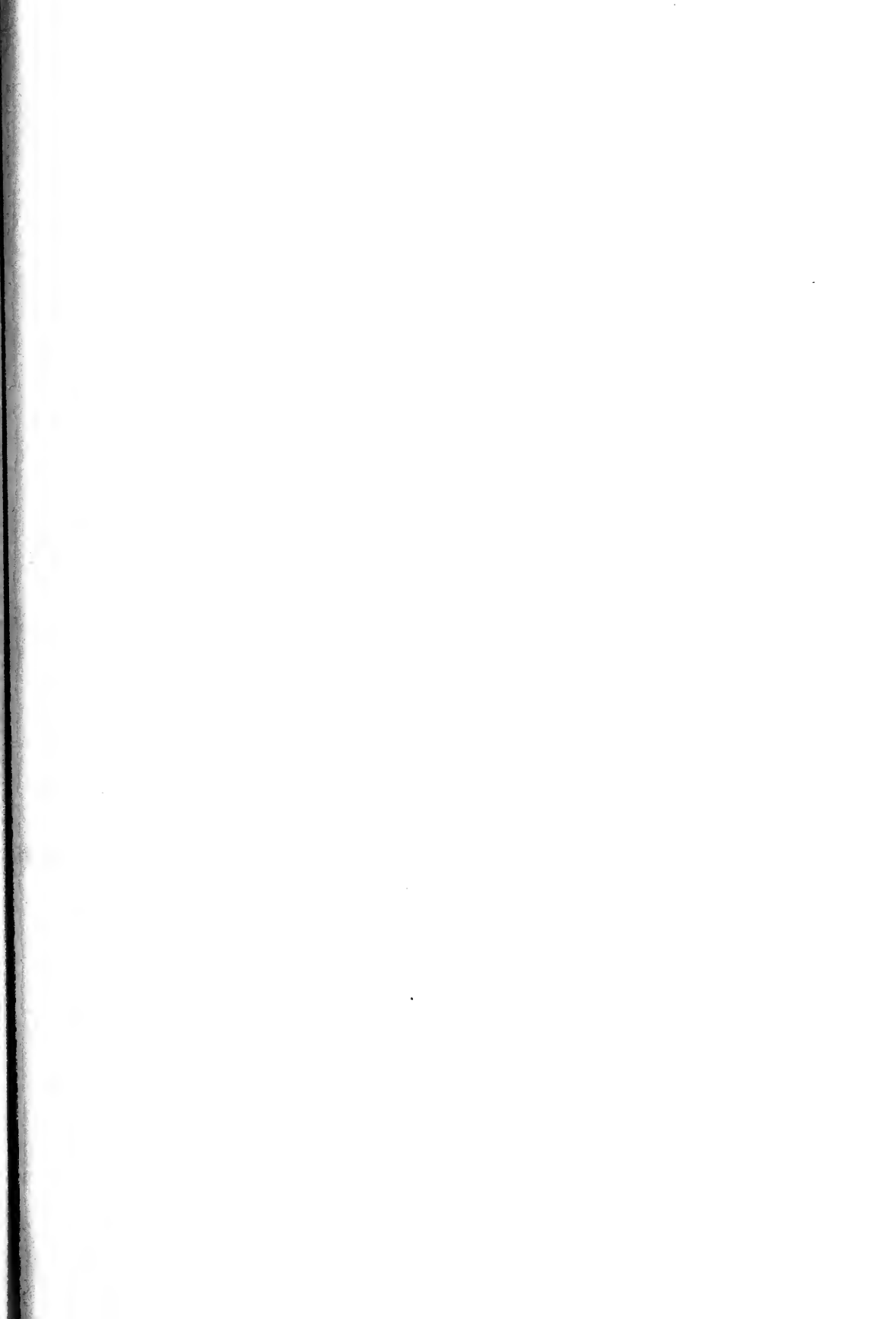
(4) For the purposes of this section, “municipality” includes a local board of a municipality and a county and “member of council” includes a member of a local board. Counties and local boards included

11. Where money is expended or cost is incurred by a municipality or the Crown in the implementation of an emergency plan or in connection with an emergency, the municipality or the Crown, as the case may be, has a right of action against any person who caused the emergency for the recovery of such money or cost, and for the purposes of this section, “municipality” includes a local board of a municipality, a county and a local services board. Right of action

- Agreements **12.**—(1) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada in respect of the payment by Canada to Ontario of any part of the cost to Ontario and to municipalities of the formulation and implementation of emergency plans.
- Idem (2) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of any other province for the provision of any personnel, service, equipment or material during an emergency.
- Idem (3) The council of a municipality may make an agreement with the council of any other municipality or with any person for the provision of any personnel, service, equipment or material during an emergency, and for the purposes of this subsection, “municipality” includes a county.
- By-law deemed to continue in force **13.** A by-law formulating or providing for the formulation of an emergency plan passed by the council of a municipality before this Act comes into force shall, to the extent that it conforms to this Act, be deemed to continue in force.
- Commencement **14.** This Act comes into force on the day it receives Royal Assent.
- Short title **15.** The short title of this Act is the *Emergency Plans Act, 1982*.







An Act to provide for the Formulation
and Implementation of Emergency Plans

1st Reading

June 30th, 1982

2nd Reading

3rd Reading

THE HON. G. TAYLOR
Solicitor General

(Government Bill)





