





CALON

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LEGISLATIVE ASSEMBLY  
OF ONTARIO

FIRST SESSION  
THIRTY-FOURTH PARLIAMENT

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

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SESSION

November 3rd, 1987 to January 7th, 1988  
February 8th to February 11th, 1988  
April 5th to June 29th, 1988  
and  
October 17th, 1988 to March 2nd, 1989



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THIRTY-FOURTH PARLIAMENT

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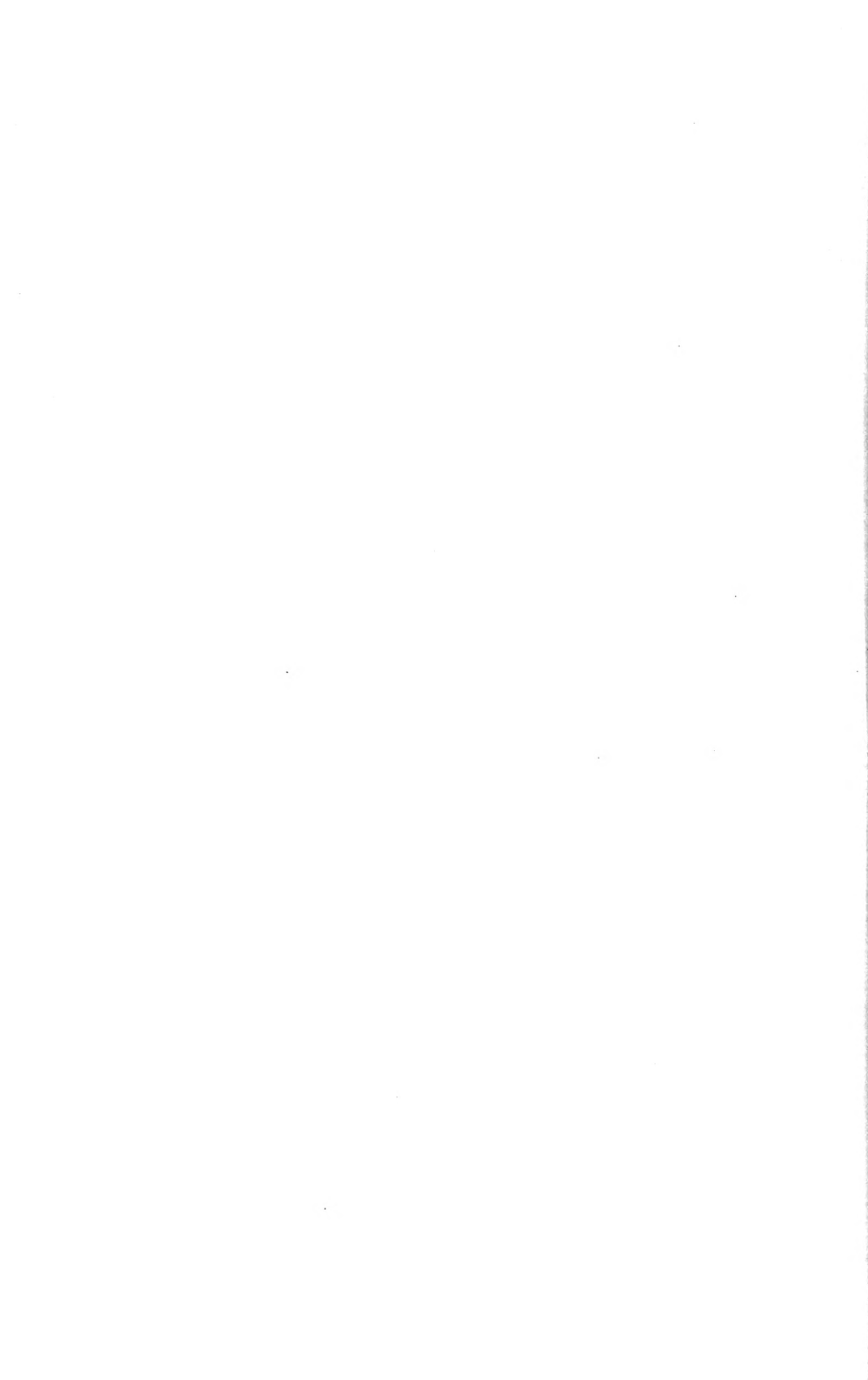
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# Bill 106

## **An Act to amend the Municipal Elections Act and the Municipal Act**

The Hon. J. Eakins  
*Minister of Municipal Affairs*

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*1st Reading*      April 5th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill is to provide for limits on campaign contributions and expenses and for their disclosure to the voters after the election. There is provision for an optional tax credit system. The Bill also amends the recount process to provide for a recount by a recount officer, rather than by a judge, who will generally be the clerk, unless another person is appointed by the clerk.

The Bill also contains amendments designed to increase the accessibility to voting by doubling the number of mandatory advance polls, standardizing voting hours and proxy voting and also making the polls more accessible to disabled and physically challenged voters. The Bill will require candidates, once elected, to maintain the qualifications for their candidacy during the term of office.

The principal provisions of the Bill are as follows:

### *Municipal Elections Act*

**SECTION 1.** The proposed section 14a clarifies that a corporation is not eligible to vote in an election.

**SECTION 2.** A candidate would have to be registered before being entitled to copies of the preliminary list of voters.

**SECTIONS 3, 6 (3).** All advance polls are to be accessible to disabled persons and persons having a mobility impairment for the 1988 election and all polls are to be accessible to such voters for the 1991 election.

**SECTIONS 4, 6 (2).** The voting hours for both regular and advance polls are to be 10 a.m. to 8 p.m.

**SECTION 5.** The provision in section 56 allowing a voter whose name is not on the voters' list to be entered on the polling list on polling day is repealed effective for the 1991 election.

**SECTION 6.—Subsection 1.** Subsection 66 (1) is amended to provide for a second mandatory advance poll to be held on the Thursday before polling day.

**SECTION 7.** Subsection 67 (1) is re-enacted to allow any elector to vote by proxy so that it is no longer necessary to show physical incapacity or absence from one's regular residence to attend school.

**SECTIONS 8, 9 and 10.** The existing recount process would be replaced in the new sections 83 to 88j. The essential features are as follows:

1. The municipal clerk is the recount officer, unless the clerk appoints another person prior to polling day or the clerk has participated in the counting of the ballots or is unable to conduct the recount.
2. A recount is automatic if the vote spread between the winner and the runner-up is less than .5 for each poll and is requested by a candidate within seven days from the date of the results. A recount continues to be held in the case of a tied vote.
3. Recounts may, as at present, be requested by the council, school board or local board within thirty days of the declaration of results.
4. Any elector who has reasonable grounds may apply for a recount to a judge and the judge shall determine whether one is to be held by the recount officer. The application to the judge is to be commenced no later than thirty days after the declaration of results.

5. The municipality, school board or local board involved shall pay the cost of a recount including reasonable remuneration for and the expenses of persons appointed as assistant recount officers and other assistants, except where the recount was held at the request of a candidate for election to a school board or local board or at the request of such board in which case the board is to pay the remuneration and expenses.

**SECTIONS 11, 12 and 13.** Section 121 which enabled council to pass a by-law regulating election contributions and expenses and requiring their reporting is repealed and replaced by a mandatory system set out in Part II, which provides for the following:

1. There is a limit of \$750 per individual contribution.
2. Limits are placed on expenses based on a formula relating to the number of electors at \$5,500 for each council head and \$3,500 for candidates for other offices plus 50 cents per elector in each ward, municipality, local board or school jurisdiction.
3. A person is required to register by filing a notice with the clerk no earlier than the 1st day of January in an election year and no later than nomination day. Contributions cannot be accepted unless a person is a registered candidate.
4. Contributions can only be made during the campaign period defined to commence on the 1st day of January of an election year and ending three months after polling day.
5. A registered candidate may appoint a chief financial officer.
6. A fund-raising function can only be held during the campaign period.
7. A candidate will be required to file with the clerk within six months after polling day a statement of expenses and contributions the nature of which will be determined by the amount of the expenses and contributions.
8. The clerk must submit a statement to the council or board showing the information received from candidates and the names of any candidates who have failed to file.
9. If a registered candidate fails to make the required disclosure within thirty days of a written demand or fails to correct an incorrect statement within thirty days or where the candidate's campaign expenses exceed the statutory limits, that candidate is ineligible to hold elected office up to and including the next regular election.
10. If an elected candidate fails to make the required disclosure within the thirty day demand period or has exceeded the statutory limits, the clerk is to notify the candidate and the council or board to which the candidate was elected. The office then becomes vacant and the former elected candidate is ineligible to hold elected office up to and including the next regular election.
11. In addition to the above penalties, a corporation or trade union may be fined up to \$10,000 for a contravention of sections 122 to 134 and an individual may be fined up to \$1,000 for a contravention of sections 122 to 134, excluding subsection 124 (7).

A council, school board or local board has the option of adopting the proposed Part III so that contributors can obtain tax credits which are payable by the jurisdiction involved. Part III establishes identical limits on contributions and expenses with similar disclosure requirements to those contained in Part II as well as identical penalties as to ineligibility and disqualification.

The essential differences between Parts II and III of the Bill are that Part III provides for the following:

1. A candidate must register with the Commission on Election Finances established under the *Election Finances Act, 1986* which administers this Part.
2. The candidate must appoint a chief financial officer.
3. The candidate must also appoint an auditor whose duties are set out with respect to the financial statements that are to be filed by the chief financial officer.
4. Political advertising paid by others and costing in excess of \$100 is considered a contribution and, if done during the campaign period, a campaign expense.
5. Media campaign advertising is restricted to the twenty-eight day period before polling day.
6. The chief financial officer of every candidate is required to file with the Commission within six months after polling day an audited statement of expenses and contributions.
7. The Commission performs the same functions as the clerk under Part II in regard to candidates who fail to comply with the disclosure requirements.
8. A candidate is to turn any surplus over to the clerk who is to hold it in trust for the candidate in the next election. If the candidate decides not to seek nomination in the next election, the surplus is to be paid into the general fund of the municipality or board. Failure to turn over the surplus renders the candidate ineligible to be nominated at the next election, unless in the meantime the surplus is paid over. In the case of an elected candidate, the office is declared vacant.
9. Every contributor is to receive a tax credit or rebate from the municipality based on the following:

<i>Contribution</i>	<i>Tax Credit or Rebate</i>
Up to \$100	75% of contribution
\$100 to \$400	\$75 plus 50% of excess over \$100
Over \$400	the lesser of,

- (a) \$225 plus 33.33% of excess over \$400 or,
- (b) \$350

10. No tax credits or rebates are to be provided until the Commission has notified the clerk that all the required statements have been filed.

### ***Municipal Act***

**SECTIONS 14 and 15.** Sections 37 and 38 of the *Municipal Act* are amended to clarify that a person must hold the qualifications for office to be elected and must continue to hold the qualifications during the term of office.



**Bill 106**

**1988**

**An Act to amend the  
Municipal Elections Act and the Municipal Act**

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

**1. The *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:**

**14a.** No corporation is eligible to vote in any election.

Corporation  
not eligible  
to vote

**2. Subsection 25 (6) of the said Act is repealed and the following substituted therefor:**

(6) Every registered candidate, as defined in section 122 or section 143, is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election.

Registered  
candidate  
entitled to  
copies

**3. Subsection 46 (1) of the said Act is amended by inserting after "electors" in the fourth line "allows easy access to persons who have a physical disability or a mobility impairment".**

**4. Section 52 of the said Act is amended by striking out "11" in the second line and inserting in lieu thereof "10".**

**5. Section 56 of the said Act is repealed.**

**6.—(1) Subsection 66 (1) of the said Act is amended by inserting after "day" in the third line "and on the Thursday immediately before polling day".**

**(2) Subsection 66 (3) of the said Act is amended by striking out "9" in the first line and inserting in lieu thereof "10".**

**(3) Subsection 66 (4) of the said Act is amended by inserting after "necessary" in the second line "shall select locations that**

allow easy access to persons who have a physical disability or a mobility impairment”.

7. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted therefor:

Who may vote by proxy

(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 may vote by proxy in the polling subdivision.

8. Section 82 of the said Act is repealed.

9. Section 83 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 14, is repealed and the following substituted therefor:

RECOUNTS

Recount officer

83.—(1) The clerk of every municipality, at the same time as the clerk appoints officials under section 4, may appoint a person as recount officer.

Disqualification

(2) No person who is a candidate or who is less than eighteen years of age shall be appointed a recount officer.

Oath

(3) A recount officer shall, before performing any duties, take the oath in the prescribed form.

10. Sections 84, 85, 86, 87 and 88 of the said Act are repealed and the following substituted therefor:

Clerk as recount officer

84.—(1) If a recount officer is not appointed under subsection 83 (1), subject to subsections (2) to (5), the clerk of a municipality is the recount officer for elections within the municipality or any part of it.

Recount officer, regional chairman

(2) The clerk of the area municipality with the greatest number of electors is the recount officer for the election of the chairman of a regional municipality.

Recount officer, police village

(3) The clerk of the municipality in which a police village is located is the recount officer for the election of the trustees of the police village.

Idem

(4) If the police village is located in two or more municipalities, the clerk of the municipality having the largest number of electors in the police village is the recount officer for the election of the trustees.

(5) The returning officers of municipalities that hold elections for school trustees under the *Education Act* are recount officers for the election of the school trustees.

Recount officer, school trustees  
R.S.O. 1980, c. 129

(6) Where the recount officer of a municipality has participated in the actual counting of the ballots for a polling subdivision in an election or, for any reason, is unable to conduct a recount arising as a result of the election, the recount officer shall immediately appoint a person to act as the recount officer for that election who is not disqualified under subsection 83 (2).

Recount officer replacement

(7) A person need not be appointed under subsection (6) if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the recount officer participated in the actual counting of the ballots.

Exception

**85.—(1)** The recount officer is responsible for the proper preparation for and conduct of a recount in the election and, for this purpose, shall direct the training of persons appointed under this section and supervise their work.

Duty of recount officer

(2) The recount officer may appoint assistant recount officers and may provide for such clerical and other assistance as is necessary to conduct a recount.

Assistants

(3) No person shall be appointed under this section who,

Disqualification

(a) is a candidate;

(b) is less than eighteen years of age; or

(c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(4) Subsection (3) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be appointed an assistant recount officer participated in the actual counting of the ballots.

Exception

(5) The recount officer may in writing delegate to the assistant recount officers such rights and duties in relation to the preparation for and conduct of a recount as the recount officer considers necessary, but such delegation does not preclude the continued exercise of those rights and performance of those duties by the recount officer.

Delegation by recount officer

Other  
appointments

(6) The recount officer may appoint persons to aid in maintaining peace and order at the recount.

Oath

(7) Every recount officer, assistant recount officer, scrutineer and any other person authorized to attend and serve at a recount shall, before performing any duties, take the oath in the prescribed form.

Who may  
administer  
oaths

(8) The recount officer may administer any oath required in relation to a recount, and assistant recount officers may administer any such oath except an oath to be taken by the recount officer.

Remuner-  
ation and  
expenses

(9) The municipality shall pay to persons appointed under this section reasonable remuneration and the expenses incurred in attending the recount, but if the recount has been held at the request of a school board or a local board or at the request of a candidate for election to a school board or local board, the school board or local board, as the case may be, shall pay the remuneration and expenses.

Tie votes,  
recount

**86.**—(1) If,

- (a) two or more candidates nominated for the same office have an equal number of votes and both or all of the candidates cannot be declared elected to the office; or
- (b) the votes for the affirmative and negative on a by-law or question are equal,

the recount officer shall, after the tied vote has been publicly announced, immediately appoint a time and place to hold a recount of the votes cast for those candidates or on the by-law or question.

When  
recount to  
be held

(2) The time appointed by the recount officer for a recount under subsection (1) shall be no later than seven days after the declaration of the results of the election under subsection 79 (2).

Where vote  
is close

**86a.**—(1) If the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes, is less than one half of one vote for each polling subdivision in the election for that office, the results shall be included in the statement required under subsection 79 (2).

(2) If subsection (1) applies and if a candidate who was not declared elected so requests in writing, the recount officer shall hold a recount. Recount on request

(3) A request for a recount under subsection (2) shall be made to the recount officer not later than seven days after the declaration of the results of the election under subsection 79 (2). When request for recount to be made

(4) Upon receiving a request for a recount under this section, the recount officer shall appoint a time and place for the recount. Time and place for recount

(5) The time appointed by the recount officer for a recount under subsection (4) shall be no earlier than ten days and no later than twenty days after the request for the recount is received. When recount to be held

**86b.**—(1) Following an election for the members of the council of a municipality or regional municipality or of a school board or of a local board, where a recount of the votes for the office is considered to be in the public interest, the council, school board or local board, as the case may be, may pass a resolution requiring the recount officer to hold a recount. Recount resolution by council, etc.

(2) A resolution for a recount under subsection (1) shall be passed no later than thirty days after the declaration of the results of the election under subsection 79 (2). When resolution to be passed

(3) If a resolution for a recount is passed under subsection (1) within the time period set out in subsection (2), the recount officer shall appoint a time and place for the recount. Time and place for recount

(4) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days after the passing of the resolution under subsection (1). When recount to be held

**87.**—(1) If, in any election, an elector has reasonable grounds for believing that, Application for recount by elector

- (a) the votes have been improperly counted or any ballot has been improperly rejected;
- (b) an incorrect statement of the number of votes for any candidate or for or against any by-law or question has been made; or
- (c) the votes have been improperly added up,

the elector may apply to a judge of the District Court of the county or district in which the municipality or part thereof or the administrative or head office of the school board or local board is situate for a determination whether a recount should be held.

Affidavit and  
deposit to  
accompany  
application

(2) An application for a recount under subsection (1) shall be commenced no later than thirty days after the declaration of the results of the election under subsection 79 (2) and shall be accompanied by,

- (a) an affidavit or affidavits setting out the grounds for the recount and the facts in support of those grounds; and
- (b) a deposit in the sum of \$100 as security for the costs in connection with the application.

Contents of  
affidavit

(3) An affidavit under clause (2) (a) shall be confined to facts within the personal knowledge of the person making the affidavit or to other evidence that this person could give if testifying as a witness in court.

Form of  
deposit

(4) A deposit under clause (2) (b) shall be in the form of cash or in the form of a money order or certified cheque made payable to the local registrar of the District Court, or in any combination thereof.

Parties to  
be served

(5) Copies of the notice of application, the application for a recount and affidavits in support of the application shall be served by the applicant,

- (a) where the application concerns an election to office, upon each candidate for that office; and
- (b) upon the recount officer.

Disposition  
of  
application,  
etc.

(6) The judge, if satisfied that there are sufficient grounds for a recount, shall order that a recount be held by the recount officer and may determine which ballot boxes, if any, shall be opened for the purpose of the recount.

Where  
recount  
ordered

(7) If the judge has ordered a recount, the judge shall immediately notify the recount officer in writing and the recount officer shall appoint a time and place to hold the recount.

When  
recount to  
be held

(8) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days

following the date the recount officer receives the notice from the judge.

(9) If costs are directed to be paid by the applicant, the costs shall be paid to the party entitled to them out of the money deposited as security under subsection (2). Payment of deposit

**88.—(1)** The recount officer shall give at least six days notice in writing of the time and place of the recount to, Notice of recount

- (a) the candidate who requested the recount, the council or school board or local board which passed the resolution for the recount, or the elector who applied to the judge for the recount, as the case may be;
- (b) the candidates for the office which is the subject of the recount;
- (c) if the recount officer is not the returning officer of the municipality, the returning officer of the municipality; and
- (d) if the recount concerns the election of chairman of a regional municipality, the trustees of a police village or the members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality.

(2) The recount officer shall attend the recount and bring the ballot boxes and all documents relating to the election. Attendance of recount officer

(3) If the recount officer is not the returning officer of the municipality, the returning officer of the municipality, or a person appointed by the returning officer, shall attend the recount and bring the ballot boxes and all documents relating to the election. Where recount officer not returning officer

(4) If the recount concerns the election of chairman of a regional municipality or of trustees of a police village or of members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality, or a person appointed by the clerk, shall attend the recount and bring the ballot boxes and all documents relating to the election. Regional chairman, police village and school board elections

(5) Each candidate for an office to which the recount relates and the elector, if any, who applied for the recount are entitled to be present and to be represented by counsel and to have present a scrutineer appointed for that purpose, and, Who may be present

where the recount relates to a by-law or question, such persons as the council may appoint as scrutineers are entitled to be present, but no other person, except with the permission of the recount officer, is entitled to be present at the recount.

Application  
of certain  
provisions

(6) Subsections 4 (8) and (10) and sections 6 and 7 apply with necessary modifications to scrutineers appointed under subsection (5).

What ballots  
involved in  
recounts

**88a.**—(1) If a recount relates to the election of a candidate, the recount shall be of the votes cast,

- (a) where subsection 86 (1) applies, for the two or more candidates who have an equal number of votes;
- (b) where subsection 86a (1) applies, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected and for the defeated candidate or candidates who received enough votes for the same office to fall within the margin of votes prescribed by that subsection; and
- (c) in all other cases, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected by the returning officer and for the defeated candidate who received the highest number of votes for the same office.

Recount of  
votes cast  
for other  
candidates

(2) Notwithstanding subsection (1), the recount officer may conduct a recount of the votes cast for any other candidate whose election or right to any other office may be affected by the recount conducted under subsection (1).

Procedure at  
recount

**88b.**—(1) At the time and place appointed for the recount, and in the presence of those persons who are entitled to be present and who have attended, the recount officer shall add the votes from the statements returned to the returning officer by the deputy returning officers, or shall count the ballots received by the returning officer from the deputy returning officers and the number of votes counted at the election, or both, as the recount officer considers appropriate, and for this purpose shall open the sealed envelopes containing,

- (a) the ballots that were not objected to and were counted;



- (b) the ballots that were objected to but were counted;
- (c) the rejected ballots;
- (d) the cancelled ballots;
- (e) the ballots that were used but were unmarked;
- (f) the declined ballots; and
- (g) the unused ballots.

(2) Subject to sections 88c and 88d, the recount officer, in conducting the recount, shall determine the validity of ballots, and shall verify or correct the statement of the vote for each polling subdivision.

Verification  
of statement  
of the vote

**88c.**—(1) A candidate, a representative of the candidate or a scrutineer who objects to the validity of a ballot or to the counting of votes in any ballot may request that the recount officer make an application to a judge of the District Court for an order determining the validity of the ballot.

Application  
to judge

(2) No hearing under subsection (1) shall be held until the recount officer has complied with subsection 88b (2).

When  
hearing to  
be held

(3) If an application is made under subsection (1), the recount officer shall,

Procedure  
where  
application  
made

- (a) write the number of the polling subdivision on the back of and initial any disputed ballots that are the subject of the application and seal them in a separate envelope clearly marked so as to indicate its contents;
- (b) give at least six days notice in writing of the time and place of the hearing of the application to the parties to the recount; and
- (c) make suitable arrangements for the safekeeping of any ballots that are not the subject of the application and any documents relating to the election that are not relevant to the application.

(4) The recount officer shall attend the hearing of the application and bring the envelope containing the disputed ballots that are the subject of the application and any documents relating to the election that are relevant to the application.

Attendance  
of recount  
officer at  
hearing

Procedure  
at hearing

(5) The judge, in the presence of the persons entitled to be present at the recount and who have attended the hearing, shall determine the validity of the ballot or to the counting of votes in any ballot and for this purpose shall open the sealed envelope containing the disputed ballots.

Distin-  
guishing  
disputed  
ballots

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, notwithstanding any order to the contrary made by the judge under this section, is disputed by the party and seal the disputed ballots in a separate envelope clearly marked so as to indicate its contents.

Procedure on  
completion  
of hearing

(7) Upon completion of the hearing, the judge shall make an order determining the validity of the ballot and shall,

- (a) advise the persons present of the order;
- (b) except as provided by subsection (6), seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b), along with any documents relating to the election that were examined during the course of the hearing, to the custody of the recount officer.

Judge to  
give order  
to recount  
officer

(8) The judge shall give a certified copy of the order to the recount officer unless, within five days following the hearing, the judge receives a notice of appeal under section 88j.

Recount  
officer to  
complete  
recount

(9) Upon receipt of the judge's order, the recount officer shall complete the recount.

Costs of  
application

(10) Subject to subsection (11), the costs of the application shall be borne by the municipality, school board or local board to which the recount relates.

Idem

(11) If the judge finds that any objection is frivolous or vexatious, the judge may order that the costs of the application be paid by the person who made the objection.

Where  
no appeal,  
envelope to  
be returned

(12) Upon the expiry of the time for appeal from a decision of the judge, if no appeal has been taken, the judge shall return the envelope described in subsection (6) to the custody of the recount officer.

Distin-  
guishing  
disputed  
ballots

**88d.** Notwithstanding section 88c, if a party to the recount requests the recount officer to do so, the recount officer shall write the number of the polling subdivision on the

back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

**88e.**—(1) Upon completion of the recount, the recount officer shall,

Procedure on completion of recount

- (a) announce the result to the persons present at the recount; and
- (b) except as provided in section 88d, seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents.

(2) The recount officer shall certify in writing the result of the recount, unless, within five days following the completion of the recount, the recount officer receives a notice of appeal under section 88j.

Certification by recount officer

(3) Following certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

Declaration of result by returning officer after recount, etc.

**88f.**—(1) In the case of a tied vote for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount, the successful candidate shall be determined by lot conducted by the recount officer.

Tied votes

(2) The lot shall be conducted by placing the names of the candidates on equal size pieces of paper in a box, and the name drawn by the recount officer shall be the successful candidate.

Method of conducting lot

**88g.** The costs of the recount, unless otherwise ordered by a judge, shall be borne by the municipality, school board or local board to which the recount relates.

Costs of recount

**88h.**—(1) Upon the expiry of the time for appeal from a decision of the recount officer, if no appeal has been taken, the recount officer shall return the envelopes described in section 88d and clause 88e (1) (b) to the custody of the appropriate clerk or returning officer.

If no appeal, envelopes to be returned

(2) If an appeal is taken from the decision of the recount officer on the recount, the recount officer shall return the envelopes of ballots and the original statements of the vote described in clause 88e (1) (b) that are not required for the

Documents not required on appeal

appeal to the custody of the appropriate clerk or returning officer.

Right to sit  
pending  
recount

**88i.**—(1) A candidate declared elected is entitled to sit on the council, school board or local board notwithstanding that a request or application for a recount has been filed or a resolution for a recount has been passed, but where the recount determines that some other person was elected, that other person is, notwithstanding that an appeal is pending, entitled to sit and vote until the appeal is disposed of.

Decisions  
not affected

(2) A decision of a council, school board or local board reached with the participation of a member who is subsequently declared not to be entitled to sit on the council, school board or local board is not affected by that participation.

#### APPEAL FROM DECISION OF JUDGE OR RECOUNT OFFICER

Appeal from  
decision of  
judge or  
recount  
officer

**88j.**—(1) Any party may appeal to the Divisional Court from the decision of the judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service  
of notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that the judge of the Divisional Court may direct.

Documents  
to be  
forwarded

(3) The judge or recount officer shall forward to the Registrar of the Supreme Court by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (6) and section 88d; and
- (d) if the appeal is not limited, all of the ballots, in the envelopes referred to in clause 88c (7) (b) or 88e (1) (b).

(4) The judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2). Certificate to be issued after appeal

(5) The judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the Registrar. Copy of certificate

(6) On receipt of the ballots, notice and statement, the Registrar shall immediately obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(7) One judge of the Divisional Court shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the judge of the District Court or to the recount officer. Determination by Divisional Court

(8) The judge or recount officer, in compliance with the decision of the Divisional Court, shall certify the result without delay. Certificate to reflect decision

**11. Subsection 103 (2) of the said Act is repealed.**

**12. Section 121 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 25 and amended by 1985, chapter 4, section 10, is repealed.**

**13. The said Act is further amended by adding thereto the following Parts:**

## PART II

**121.** In this Part,

Definitions

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and contributions of goods and services to the registered candidate, but does not include,

- (a) audit and accounting fees,
- (b) interest on loans under section 127,

- (c) an expense incurred in holding a fund-raising function referred to in section 126,
- (d) an expense incurred for victory parties held and appreciation notices published after polling day,
- (e) an expense relating to a recount in respect of the election, and
- (f) an expense relating to an action commenced under section 106;

“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
  - (i) an order to hold a new election is given in any judicial proceedings,
  - (ii) the council of the municipality passes a by-law to hold a new election, or
  - (iii) the clerk receives from the secretary of a school board notice that a new election is required,

and ending three months after polling day;

“contribution” means a contribution made to a registered candidate or representative of a registered candidate for purposes of the election of the registered candidate at the next election, but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour, and
- (b) any service voluntarily performed for a registered candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in excess of what the individual would normally receive during the period the service was performed;

“municipality” means a city, town, village, police village, township, regional municipality or metropolitan municipality;

“registered candidate” means a candidate registered under section 122;

“trade union” means a trade union as defined in the *Labour Relations Act* or the *Canada Labour Code* that holds bargaining rights for employees in Ontario to whom those Acts apply and includes any central, regional or district labour council in Ontario.

R.S.O. 1980,  
c. 227  
R.S.C. 1970,  
c. L-1

## REGISTRATION

**122.**—(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form.

Registration  
of candidate

(2) In the case of a new election, the notice of registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

Registration  
in new  
elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election; or
- (c) the clerk receives from the secretary of the school board notice that a new election is required,

and no later than nomination day.

(3) A person who files a notice of registration under subsection (1) becomes a registered candidate on the day of filing.

When  
candidate  
registered

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contri-  
butions to  
unregistered  
candidate

(5) The clerk shall keep a register of every person who has filed a notice of registration under subsection (1) setting out,

Register

- (a) the date that the registered candidate is duly nominated under section 36;

- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every chartered bank, trust company or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions;
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g); and
- (i) the date of registration.

Effective date of registration

(6) A notice of registration under subsection (1) may be filed with the clerk by registered mail in which case it shall be deemed to be filed on the day it is mailed.

Where registered candidate withdraws, etc.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;
- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,



and the registered candidate or the chief financial officer shall file with the clerk the statement referred to in section 132 within six months after polling day.

(8) If the information referred to in subsection (5) is altered, the registered candidate shall immediately notify the clerk in writing of the alteration and, upon receipt of the notice, the clerk shall vary the register accordingly.

Variation  
of register

#### CHIEF FINANCIAL OFFICERS

**123.**—(1) Every person who proposes to be a candidate may appoint a chief financial officer before or after filing the notice of registration with the clerk.

Chief  
financial  
officer

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the clerk of the full name and address of the new chief financial officer.

Replacement

(3) The chief financial officer shall be responsible for ensuring that,

Duties  
of chief  
financial  
officer

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in the appropriate accounts;
- (c) proper receipts are completed;
- (d) the financial statements required under section 132 and the auditor's report on the statements are filed with the clerk;
- (e) contributions consisting of goods or services are valued and recorded; and
- (f) proper direction is given to persons authorized to incur expenses.

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is responsible for the duties set out in subsection (3).

Where  
no chief  
financial  
officer

#### CONTRIBUTIONS

**124.**—(1) Contributions to registered candidates may be made only by individuals, corporations and trade unions and may be made only during the campaign period.

Contributions

Contributions to be made in campaign period

(2) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept contributions at any time other than during the campaign period.

How contributions of money to be made

(3) Money contributions to registered candidates in amounts in excess of \$25 shall only be made by,

- (a) a cheque having the name of the contributor legibly printed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit of funds

(4) All moneys accepted by or on behalf of a registered candidate shall be paid into an account registered with the clerk under subsection 122 (5).

Refund of contributions

(5) If the registered candidate or the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the registered candidate or the chief financial officer shall, within thirty days after so learning and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

Anonymous contributions payable to municipality

(6) Any contributions not returned to the contributor under subsection (5) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the clerk and become part of the general funds of the municipality.

Limitation on contributions

(7) No individual, corporation or trade union shall make a contribution in money, goods and services to any registered candidate which in total exceeds \$750 in value during any campaign period.

Registered candidate's funds, spouses's funds

(8) Any moneys used for an election campaign by a registered candidate out of the registered candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this section, but the limit on the total amount of contributions established under subsection (7) does not apply in respect of those funds.

(9) Every registered candidate shall submit to the clerk at the same time as the financial statement is filed under section 132, a statement in writing setting out campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the registered candidate, together with all receipts and claims for those expenses.

Statement to be submitted to clerk

**125.**—(1) No individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to that individual, corporation or trade union.

Contributor to contribute only funds belonging to contributor

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the registered candidate shall solicit or accept any contribution contrary to subsection (1).

Prohibition

(4) No registered candidate shall accept funds from,

No funds from political parties, etc. 1973-74, c. 14 (Can.)

(a) a federal political party registered under the *Canada Elections Act* or any federal constituency association or registered candidate at a federal election endorsed by such federal political party; or

(b) a provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act, 1986*.

1986, c. 33

(5) A registered candidate shall issue receipts for every contribution accepted.

Receipts

(6) A contribution to a registered candidate made through an unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

Group contributions

(7) The amounts making up a contribution under subsection (6) that are attributable to an individual, corporation or trade union are contributions of that individual, corporation or trade union for the purposes of subsection 124 (7).

Application to amounts making up contribution

(8) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept any contributions in excess of the limits imposed under subsection 124 (7).

Receipt of excess contributions prohibited

Restriction on contributions

(9) No registered candidate shall directly or indirectly solicit or accept contributions from,

- (a) an individual normally resident outside Ontario;
- (b) a corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

Trade unions, contributions

(10) Contributions of not more than 15 cents per month by a member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of section 124 and this section, but any amount contributed to a registered candidate shall be deemed to be a contribution from the trade union.

Record of contributions to be kept

(11) Every registered candidate shall keep a record of all contributions in excess of \$25 or having a value in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contributions from a single source that in the aggregate exceed \$100, the name and address of the contributor.

Definition

**126.**—(1) In this section, “fund-raising function” means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held.

When fund-raising functions to be held

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period.

Income to be reported

(3) The gross income from a fund-raising function shall be recorded and reported to the clerk by the registered candidate or the chief financial officer.

Where charge may be considered not a contribution

(4) If a charge is made for a fund-raising function by the sale of tickets or otherwise, any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate, be considered not to be a contribution.

Where amounts to be considered contributions

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of current market value shall be considered a contribution.

Collection of money at meetings

(6) If a meeting is held on behalf of or in relation to the affairs of a registered candidate and money is given in

response to a general collection of money solicited from the persons in attendance at the meeting, no amount shall be given anonymously by any person in excess of \$10 and the amounts so given shall be considered not to be contributions, but the gross amount collected shall be recorded and reported to the clerk by the registered candidate or the chief financial officer.

#### BORROWING

**127.**—(1) A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the registered candidate and reported to the clerk in the financial statement filed under subsection 132 (1). Borrowing

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1). Limitation

#### LOAN GUARANTEE

**128.**—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate. Guarantee of loan to registered candidates prohibited

(2) An individual, corporation or trade union that is eligible to make a contribution may guarantee any loan referred to in subsection 127 (1). Exception

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 127 (1) shall not be considered to be a contribution under section 124, but if the guarantor forgives or waives all or any part of the borrower's indebtedness that has been guaranteed, the amount so forgiven or waived shall be considered to be a contribution under section 124 and may be forgiven or waived only to the extent that it does not exceed the maximum contribution permitted under subsection 124 (7). When loan considered contribution

#### CAMPAIGN EXPENSES

**129.**—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the registered candidate by persons authorized by the registered candidate. Authority to incur campaign expenses

Certificate  
of authority

(2) Every person authorized to incur a campaign expense shall, upon request, show a certificate, in the prescribed form, signed by the registered candidate as proof of the authority.

Record of  
campaign  
expenses

(3) Every registered candidate shall keep a record of all campaign expenses.

Limitation  
on campaign  
expenses

(4) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation, trade union or unincorporated association acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed the aggregate amount of \$5,500 plus \$0.50 per elector.

Idem

(5) Subject to subsection (6), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality if this office is required to be filled by the vote of the electors of an area municipality; or
- (c) member of a school board or of a local board whose members are to be elected at elections required to be conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation, trade union or unincorporated association acting on behalf of the registered candidate during the period commencing with the date of registration and ending on polling day in the election shall not exceed the amount of \$3,500 plus \$0.50 per elector.

Limitation  
on campaign  
expenses,  
ward  
elections

(6) If the municipality or the school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of the wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Determi-  
nation of  
number of  
electors by  
returning  
officer

(7) For the purpose of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local

board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

(8) After determining the number of electors under subsection (7), the clerk shall calculate, for each office, the maximum amount of campaign expenses that may be incurred by a registered candidate under subsection (4), (5) or (6), as applicable, certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or send by registered mail a copy of the certificate to each registered candidate for the office.

Calculation and certification of maximum campaign expenses by returning officer, etc.

(9) Certification of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office by the clerk under subsection (8) shall be conclusive evidence of that fact and shall not be open to challenge.

Certificate conclusive

**130.**—(1) Every individual, corporation or trade union that has any claim for payment in relation to a campaign expense shall submit the claim within three months after polling day to the registered candidate who incurred the expense.

Time for submission of claims of payment

(2) Every payment of a campaign expense shall be made by the registered candidate or the chief financial officer who incurred or on whose behalf the campaign expense was incurred and, except where the campaign expense is less than \$25, a receipt shall be obtained setting out the particulars and proof of payment.

Payment of expenses by registered candidate

(3) Payment of any campaign expense shall be made by cheque drawn on an account registered with the clerk under subsection 122 (5).

Method of payment

(4) If the registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

Disputed claims

AUDITORS

**131.**—(1) If contributions received by a registered candidate exceed \$20,000 or expenses incurred by the registered candidate exceed \$20,000 during the campaign period, the registered candidate shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately inform the clerk of the full name and address of the auditor.

Appointment of auditor

R.S.O. 1980, c. 405

(2) The auditor shall make a report to the registered candidate or the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 132, and shall make such exami-

Report of auditor

nation of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards.

Idem

(3) If,

- (a) the auditor has not received from the registered candidate or the chief financial officer all the information and explanation that is required to make the report; or
- (b) proper accounting records have not been kept by the registered candidate or the chief financial officer,

the auditor shall make a statement to that effect in the report made under subsection (2).

Right of  
access

(4) An auditor appointed under subsection (1) shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate.

Co-operation  
required

(5) The registered candidate or the chief financial officer shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (2).

#### STATEMENTS, REPORTS AND STATUTORY DECLARATIONS

Filing of  
financial  
statement

**132.**—(1) Subject to subsections (2) and (3), every registered candidate shall file with the clerk who was the returning officer in the election within six months after polling day a financial statement and auditor's report in the prescribed form which shall contain,

- (a) all income received and expenses incurred in the campaign period;
- (b) a list of contributions in the form of goods or services and the value of them received by or on behalf of the registered candidate during the campaign period;
- (c) the name, address and contribution of each individual, corporation or trade union that made a contribution, whether in the form of money, goods or services, if the contribution was more than \$100; and



- (d) a list of campaign expenses, paid and outstanding, incurred in a campaign period and a statement of disputed claims.

(2) If the contributions received by or on behalf of a registered candidate do not exceed \$20,000 and expenses incurred by or on behalf of the registered candidate do not exceed \$20,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a report in the prescribed form containing the information required in subsection (1).

Where report sufficient

(3) If the contributions received by or on behalf of a registered candidate do not exceed \$1,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$1,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration in the prescribed form to that effect.

Where statutory declaration sufficient

(4) After the time for the filing of a statement, report or declaration under subsection (1), (2) or (3) has expired, the clerk shall immediately prepare a statement in the prescribed form disclosing,

Clerk to prepare statement

- (a) the information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

(5) After the time prescribed for making full disclosure under subsection (1) has expired, the clerk shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement, report or declaration, a notice in the prescribed form demanding that the registered candidate file a statement, report or declaration within thirty days from the date of the notice.

Demand to candidate to file

(6) The notice under subsection (5) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not elected, shall be ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the statement, report or declaration within thirty days of the date of the notice.

Contents of demand notice

Publishing  
notice of  
non-com-  
pliance

(7) The clerk shall post a notice of non-compliance in the prescribed form in two conspicuous places in the municipality and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

Clerk  
to prepare  
supple-  
mentary  
statement

(8) After the thirty day period for the filing of a statement, report or declaration has expired, the clerk shall immediately prepare a supplementary statement in the prescribed form disclosing,

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section, within the thirty day period allowed by subsection (5),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Ineligibility  
respecting  
future  
elections

**133.—**(1) If a registered candidate,

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (5);
- (b) files a financial statement, a report or statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date that the clerk files the statement under subsection 132 (4); or
- (c) incurs campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

Forfeiture  
of office

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the clerk shall immediately notify in writing the registered candidate and the council, school board or local board, as the case may

be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

Ineligibility  
respecting  
future  
elections

#### ACCESS TO DOCUMENTS

**134.**—(1) Documents, financial statements, reports and declarations filed with the clerk under this Part are public records and may be inspected by any person upon request at the office of the clerk during normal office hours.

Inspection of  
documents

(2) Any person may make extracts from the statements, reports or declarations referred to in subsection (1) and is entitled to copies thereof upon payment for the preparation of the copies at such rate as the clerk charges for the preparation of copies of other documents.

Extracts and  
copies

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the clerk under this Part for the purposes of commercial solicitation.

Not to be  
used for  
commercial  
solicitation

(4) This section applies to a statement prepared by the clerk that is required to be submitted to the council of the municipality, the school board or local board under subsection 132 (4) or (8).

Section  
applicable to  
certain  
statements

#### OFFENCES

**135.**—(1) A corporation or trade union that contravenes any of sections 122 to 134 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence by  
corporation  
or trade  
union

(2) An individual who contravenes any of sections 122 to 134, except subsection 124 (7), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence

(3) If the total campaign expenses incurred by a registered candidate or any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 129 for the

Additional  
penalty

office subject to election, the candidate, in addition to the fine set out in subsection (2), is liable to a fine equal to the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 129.

One year  
limitation

**136.** No prosecution shall be instituted for a contravention of any of sections 122 to 134 more than one year after the facts upon which the prosecution is based first came to the knowledge of the informant.

Obstructing  
investigation,  
etc.

**137.—(1)** No person shall obstruct a person making an investigation or examination under this Act or withhold or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

False  
statements

(2) No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the clerk under section 132 or 133.

### PART III

Definitions

**138.** In this Part,

R.S.C. 1970,  
c. B-11

“broadcasting undertaking” means a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada);

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and contributions of goods and services to the registered candidate but not including,

- (a) auditor’s and accounting fees,
- (b) interest on loans authorized under section 162,
- (c) an expense incurred in holding a fund-raising function referred to in section 153,
- (d) an expense incurred for victory parties and appreciation notices published after polling day,
- (e) an expense relating to a recount in respect of the election,

- (f) an expense relating to an action commenced under section 106, and
- (g) other expenses not of partisan value that are set out in guidelines provided by the Commission;

“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
  - (i) an order to hold a new election is given in any judicial proceedings,
  - (ii) the council of the municipality passes a by-law to hold a new election, or
  - (iii) the clerk receives from the secretary of a school board notice that a new election is required,

and ending three months after polling day;

“Commission” means the Commission on Election Finances established by the *Election Finances Act, 1986*;

1986, c. 33

“contribution” means a contribution made to a representative of a registered candidate but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour,
- (b) any service voluntarily performed for a candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in excess of what the individual would receive during the period the service was performed, and
- (c) any moneys, goods or services solicited by or donated to a registered candidate for purposes other than those set out in subsection 143 (3);

“municipality” means a city, town, village, police village, township, regional municipality or metropolitan municipality;

“news reporting done in good faith” means interviews, commentaries or other works prepared for and published by any newspaper, magazine or other periodical publication or broadcast on the facilities of any broadcasting undertaking without charge to any candidate registered under this Part;

“outdoor advertising facilities” means outdoor facilities provided by any person that is in the business of providing these facilities on a commercial basis for advertising purposes but does not include radio, television, newspaper, magazine or other periodical publications;

“registered candidate” means a candidate registered under section 143;

“trade union” has the same meaning as in Part II.

#### APPLICATION

Council may  
by by-law  
adopt this  
Part

**139.**—(1) Notwithstanding Part II, the council of a municipality may pass a by-law to have this Part apply to elections for the office of member of council including the head of the council of the municipality.

Application  
of Part

(2) If a by-law is passed under subsection (1), this Part applies to the election of members of council.

By-laws to  
be sent to  
Commission  
and clerk

(3) Where the council of a regional municipality or metropolitan municipality passes a by-law under subsection (1), the clerk of the regional or metropolitan municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional or metropolitan municipality.

By-laws to  
be sent to  
Commission

(4) Where the council of a municipality, other than a regional or metropolitan municipality, passes a by-law under subsection (1), the clerk of the municipality shall send a copy of the by-law to the Commission.

School board  
may adopt  
this Part

**140.**—(1) Notwithstanding Part II, where members of a school board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the school board may pass a resolution to have this Part apply to elections of members of the board.

Application  
of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of members of the board.

(3) Where a school board passes a resolution under subsection (1), the secretary of the board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

Resolution of school board to be sent to Commission and clerk

**141.**—(1) Notwithstanding Part II, where members of a local board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the local board may pass a resolution to have this Part apply to elections of members of the board.

Local board may adopt this Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of the board.

Application of Part

(3) Where a local board passes a resolution under subsection (1), the secretary of the local board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

Resolution of local board to be sent to Commission and clerk

**142.** A by-law under section 139 or a resolution under section 140 or 141 shall be passed prior to the 1st day of January of an election year and, once passed, shall remain in force until repealed by a by-law of the council of the municipality or by a resolution of the school board or the local board, as the case may be, but no such repealing by-law or resolution shall be passed or take effect in an election year.

When by-laws or resolution to be passed or repealed

#### REGISTRATION

**143.**—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the Commission an application for registration under this Part.

Application for registration as candidate

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the Commission no earlier than the day on which,

Application, new elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election; or

- (c) the clerk receives from the secretary of a school board notice that a new election is required,

and not later than nomination day.

No contributions to unregistered candidate

(3) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

Register

(4) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate who files an application for registration with the Commission setting out,

- (a) that the person,
- (i) has been duly nominated for election to office in accordance with this Act and whose nomination is certified by the clerk, or
  - (ii) has not been so nominated but proposes to become so;
- (b) the name of the office for which the candidate has been or proposes to be nominated;
- (c) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (d) the full name and address of the registered candidate;
- (e) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (f) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (g) the full name and addresses of all persons authorized by the registered candidate to accept contributions;
- (h) the name and address of every chartered bank, trust company or other financial institution in Ontario



that is used by or on behalf of the registered candidate for the deposit of any contributions;

- (i) the full names and addresses of the persons responsible for making the deposits referred to in clause (h).

(5) A registered candidate who files an application under subsection (4) shall be deemed to be registered on the day of filing. Effective date of registration

(6) An application under subsection (4) may be filed with the Commission by registered mail in which case it shall be deemed to be filed on the day it is mailed. Idem

(7) The campaign period with respect to a registered candidate shall be deemed to expire, Where registered candidate withdraws, etc.

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;
- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of his death,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and file a copy of it with the clerk within six months after the expiration of the campaign period.

(8) If the information referred to in clauses (4) (d) to (i) is altered, the candidate shall immediately notify the Commission in writing of the alteration, and, upon receipt of the notice, the Commission shall vary the register accordingly. Variation of register

**144.**—(1) After registering a candidate under subsection 143 (4), the Commission shall notify in writing the clerk of the municipality who is responsible for the conduct of the election and indicate to the clerk, Notification by Commission to clerk

- (a) the full name and address of the registered candidate; and
- (b) the name of the office for which the registered candidate has been, or will be nominated.

Clerk to  
maintain list  
of candidates

(2) The clerk shall maintain a list of all registered candidates and the office for which the registered candidate has been, or will be, nominated.

Notification  
of changes

(3) Where the full name and address of a registered candidate is varied by the Commission under subsection 143 (8), the Commission shall immediately notify the clerk in writing of the variation, and, upon receipt of the notice, the clerk shall vary the list of registered candidates accordingly.

#### CHIEF FINANCIAL OFFICERS

Chief  
financial  
officer

**145.**—(1) Every person who is applying for registration under this Part, before filing an application with the Commission, shall appoint a chief financial officer.

Replacement

(2) Where the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the Commission of the full name and address of the new chief financial officer.

Duties  
of chief  
financial  
officer

(3) The chief financial officer shall be responsible for ensuring that,

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in a depository on record with the Commission;
- (c) proper receipts are completed and dealt with in accordance with this Part;
- (d) the financial statements as required by section 169 together with the auditor's report on those statements, are filed with the Commission in accordance with this Part;
- (e) contributions consisting of goods or services are valued and recorded in accordance with this Part; and
- (f) proper direction is given to persons authorized to incur expenses.

#### CONTRIBUTIONS

Contributions

**146.**—(1) Contributions to registered candidates may be made by individuals, corporations and trade unions only during the campaign period.

(2) Money contributions to registered candidates in amounts in excess of \$25 shall be made only by, How contributions of money to be made

- (a) a cheque having the name of the contributor legibly printed or typed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

(3) All moneys accepted by or on behalf of a registered candidate shall be paid into an account on record with the Commission. Deposit of funds

**147.**—(1) If the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the chief financial officer shall, within thirty days after so learning and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of that contribution, return the contribution or an amount equal to the sum contributed. Refund of contributions

(2) Any contributions not returned to the contributor in accordance with subsection (1) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the Commission and become part of the general funds of the Commission to be used by the Commission in carrying out its responsibilities under this or any other Act. Anonymous contributions

**148.**—(1) No individual, corporation or trade union shall make a contribution in money, goods and services to a registered candidate which in total exceeds \$750 in value during any campaign period. Limitation on contributions

(2) Any moneys used for an election campaign by a registered candidate out of the candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this Part, but the limit on the total amount or value of contributions established under subsection (1) does not apply in respect of those funds. Registered candidate's funds, spouse's funds

(3) Every registered candidate shall submit to the chief financial officer a statement in writing setting out all campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the candidate, together Statement to be submitted

with all receipts and claims for those expenses, within six months after polling day.

Contributor to contribute only funds belonging to contributors

**149.**—(1) Subject to section 159, no individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to the individual, corporation or trade union.

Exception

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Prohibition

(3) No registered candidate and no individual, corporation or trade union on behalf of the candidate, shall solicit or accept any contribution contrary to subsection (1).

No funds from political parties, etc. 1973-74, c. 14 (Can.)

**150.** No registered candidate shall accept funds from,

- (a) a federal political party registered under the *Canada Elections Act* or any federal constituency association or candidate at a federal election endorsed by such federal political party;
- (b) a provincial political party, constituency association, candidate or leadership contestant registered under the *Election Finances Act, 1986*.

1986, c. 33

Determination of value of goods and services

**151.**—(1) The value of goods and services provided as a contribution to a registered candidate is,

- (a) where the contributor is in the business of supplying these goods and services, the lowest amount charged by the contributor for an equivalent amount of similar goods and services at or about the time and in the same market area;
- (b) where the contributor is not in the business of supplying these goods or services, the lowest amount charged, at or about the time the goods or services are provided, by any other individual, corporation or trade union providing similar goods or services on a commercial retail basis in the same market area.

Where goods or services less than \$100

(2) Goods or services having a total value of \$100 or less may, at the option of the individual, corporation or trade union providing these goods or services, be considered not to be a contribution for the purposes of this Part.

(3) Where goods or services are provided to a registered candidate for a price that is less than the value of the goods or services as determined under subsection (1), the amount that the price is less than that value shall, subject to subsection (2), be a contribution for the purpose of this Part.

Where goods or services provided at less than value

**152.—(1)** Where any individual, corporation or trade union with the knowledge and consent of a registered candidate promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcasting undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or through the use of any outdoor advertising facility and the amount of the cost of the advertisement,

Political advertisements

- (a) in the case of any single advertisement, is more than \$100; and
- (b) in the case of any advertisements from a single service broadcast or published in any campaign period, in total exceeds \$100,

this amount shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

(2) Notwithstanding subsection (1), where political advertising is provided on the facilities of any broadcasting undertaking without charge to registered candidates in a particular municipality or school board or local board jurisdiction in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines issued thereunder, such political broadcasts shall not be considered a contribution or a campaign expense.

Idem

R.S.C. 1970,  
c. B-11

(3) No individual, corporation or trade union shall cause any political advertisement to be broadcast on the facilities of any broadcasting undertaking or published in any newspaper, magazine or other periodical publication or through the use of any outdoor advertising facility unless the broadcaster or publisher of the political advertisement is furnished with the identification, in writing, of the individual, corporation or trade union sponsoring the political advertisement.

Identity of sponsor of advertisement to be known

(4) A broadcaster who broadcasts or a publisher who publishes a political advertisement shall maintain records for a period of two years after the date of the broadcast or publication setting out the advertisement, the charge for it and any

Records to be maintained of political advertisement

material relating to identification furnished to the broadcaster or publisher in connection with the advertisement and shall permit the public to inspect these records during normal office hours.

Name of sponsor to be included in political advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the individual, corporation or trade union sponsoring the political advertising.

Definition

(6) In this section, "political advertisement" and "political advertising" mean any matter promoting or opposing the election of any registered candidate for which a fee is paid, but does not include any news reporting done in good faith.

Definition

**153.**—(1) In this section, "fund-raising function" means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held.

Restriction on fund raising

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period.

Income to be reported to Commission

(3) The gross income from any fund-raising function shall be recorded and reported to the Commission by the chief financial officer of the registered candidate who held the function or on whose behalf the function was held.

Sale of tickets, etc.

(4) Where a charge by the sale of tickets or otherwise is made for a fund-raising function, all or any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate by whom or on whose behalf the function was held, be considered not to be a contribution for the purposes of this Part.

Excess payments considered contributions

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of the highest amount charged, at or about the time the goods or services are provided, by any other person providing similar goods on a commercial basis in the same market area shall be considered a contribution.

Collections at meeting

**154.**—(1) Where, at a meeting held on behalf of a registered candidate, money is given in response to a general collection of money solicited, no amount shall be given anonymously by any person in excess of \$10.

Idem, reporting of amount

(2) The amounts given under subsection (1) shall be considered not to be contributions but the gross amount collected

shall be recorded and reported to the Commission by the chief financial officer.

**155.**—(1) Every registered candidate shall issue or cause to be issued receipts in the form prescribed by the Commission for every contribution accepted. Receipts to be issued for contributions

(2) A receipt prescribed by the Commission under subsection (1) shall provide, on its face, for the acknowledgment of the contribution accepted by or on behalf of the registered candidate and, on its back, for an application to the clerk of the municipality who was responsible for conducting the election for a tax credit that the contributor is eligible to receive under this Part on account of the contribution. Form of receipt

**156.**—(1) Any contribution to a registered candidate made through any unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution. Group contributions to be recorded as to source

(2) The amounts making up a contribution under subsection (1) that are attributable to any individual, corporation or trade union are contributions of that individual, corporation or trade union. Idem

**157.** No registered candidate and no individual, corporation or trade union on behalf of the candidate shall solicit or accept any contributions in excess of the limits imposed by this Part. Prohibition

**158.** No registered candidate shall directly or indirectly solicit or accept contributions from, Restriction on contributions

- (a) any individual normally resident outside Ontario;
- (b) any corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

**159.** Contributions of not more than 15 cents per month by any member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of this Part, but any amounts contributed to a registered candidate from these funds shall be considered to be a contribution from the trade union. Contributions by payroll deduction

Contributions  
not to be  
accepted by  
candidate  
directly

**160.** No contribution shall be accepted by a registered candidate except through the chief financial officer or other person on record with the Commission as authorized to accept contributions.

Record of  
contributions  
to be kept

**161.** Every registered candidate shall keep a record of all contributions in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contributions from a single source that in the aggregate exceed \$100, the name and address of the contributor.

#### BORROWING

Borrowing

**162.—(1)** A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the candidate and reported to the Commission.

Limitation

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1).

#### LOAN GUARANTEE

Guarantee  
of loans to  
registered  
candidates  
prohibited

**163.—(1)** Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception

(2) An individual, corporation or trade union that is eligible to make a contribution under this Part may guarantee any loan referred to in subsection 162 (1).

When loan  
considered  
contribution

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 162 (1) shall not be considered to be a contribution for the purposes of this Part, but if the guarantor forgives or waives all or any part of the borrower's indebtedness that has been guaranteed, the amount so forgiven or waived shall be considered to be a contribution for the purposes of this Part and may be forgiven or waived only to the extent permitted under section 148.

#### CAMPAIGN ADVERTISING

Restriction  
on  
advertising

**164.—(1)** No registered candidate and no individual, corporation or trade union acting with the candidate's knowledge



and consent shall, except during the period of twenty-eight days immediately preceding the day before polling day,

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for the purposes of promoting or opposing the election of a registered candidate.

(2) No individual or corporation shall, during the period prescribed in subsection (1), broadcast on the facilities of any broadcasting undertaking or publish in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities an advertisement promoting or opposing the election of a registered candidate on behalf of any registered candidate or any individual, corporation or trade union acting with the candidate's knowledge or consent. Idem

(3) Subsections (1) and (2) do not apply to, Exemptions

- (a) advertising public meetings in the municipality or the jurisdiction of the school board or local board, as the case may be;
- (b) announcing the location of the campaign headquarters of a candidate;
- (c) advertising for volunteer campaign workers;
- (d) announcing services for electors by candidates respecting the revision of the preliminary list and additions to the polling list;
- (e) announcing services for electors on polling day; or
- (f) any other matter respecting administrative functions of a candidate's campaign headquarters,

if the advertisements, announcements and other matters are done in accordance with the guidelines of the Commission.

(4) Nothing contained in subsection (1) prohibits news reporting done in good faith during the period referred to in Idem

subsection (1) or the procuring for publication or the publishing of,

- (a) an advertisement referred to in subsection (1) on the day immediately preceding polling day in a newspaper which is published in the municipality or in the jurisdiction of the school board or local board, as the case may be, not more frequently than once a week if the day of regular publication falls on the day immediately preceding polling day; or
- (b) an advertisement referred to in subsection (1) on the day immediately preceding polling day and on polling day through the use of any outdoor advertising facility.

Idem.  
broadcasting

R.S.C. 1970.  
c. B-11

(5) Nothing in subsection (1) prohibits the broadcasting on the facilities of a broadcasting undertaking of news reporting done in good faith in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines published thereunder during the period referred to in subsection (1).

Limitations  
on charges  
for  
broadcasting.  
publishing

(6) No individual or corporation shall,

- (a) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for broadcasting time on any broadcasting undertaking in the period beginning on the twenty-eighth day before the day immediately before polling day at an election and ending on the second day before polling day, that exceeds the lowest rate charged by the individual or corporation for an equal amount of equivalent time on the same facilities made available to any other person in that period; or
- (b) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for an advertisement in a periodical publication published or distributed and made public in the period referred to in clause (a) that exceeds the lowest rate charged by the individual or corporation for an equivalent amount of advertising space in the same issue of the periodical or in any issue published or distributed and made public in that period.

#### CAMPAIGN EXPENSES

Authorized  
expenses

**165.**—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the chief

financial officer of the candidate by persons authorized by the chief financial officer.

(2) Every person authorized to incur a campaign expense by a chief financial officer under subsection (1) shall, upon request, show a certificate, in the form prescribed by the Commission, signed by the chief financial officer as proof of the authority. Proof of authority

**166.**—(1) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation or trade union acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$5,500, plus \$0.50 per elector. Limitation on campaign expenses, head of council

(2) Subject to subsection (3), the total campaign expenses incurred by a registered candidate in an election for the office of, Idem, members of council, etc.

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality where this office is required to be filled by the vote of the electors of an area municipality;
- (c) member of a school board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality; or
- (d) member of a local board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation or trade union acting on behalf of that candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$3,500, plus \$0.50 per elector.

(3) Where the municipality, school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of those wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be. Campaign expenses, ward system

Determi-  
nation of  
number  
of electors

(4) For the purposes of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Duties  
of clerk

(5) After determining the number of electors under subsection (4), the clerk shall calculate, for each office, the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for an office under subsection (1) or (2), and certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or cause to be delivered personally or send or cause to be sent by registered mail a copy of the certificate to each registered candidate for the office and to the Commission.

Clerk's  
certificate  
conclusive

(6) Certification of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office by the clerk under subsection (5) is conclusive evidence of the fact.

Submission  
of payment  
claims

**167.**—(1) Every individual who or corporation or trade union which has any claim for payment in relation to a campaign expense shall submit the claim within three months after polling day to the chief financial officer of the registered candidate who incurred the expense.

Payment  
of claims

(2) Every payment of a campaign expense shall be made by the chief financial officer of the registered candidate who incurred the campaign expense and, except where the campaign expense is less than \$25, the chief financial officer shall set out the particulars of payment.

Disputed  
claims

(3) Where the chief financial officer of a registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

#### AUDITORS

Appointment  
of auditor

R.S.O. 1980,  
c. 405

**168.**—(1) Every candidate, at the time of appointing a chief financial officer, shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Change of  
auditors

(2) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (3), the candidate shall immediately appoint another auditor licensed under the

*Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor. R.S.O. 1980,  
c. 405

(3) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate. Persons not  
eligible to be  
auditors

(4) The auditor shall make a report to the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 169, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards. Report of  
auditor

(5) If, Idem

(a) the auditor has not received from the chief financial officer all the information and explanation that is required; or

(b) proper accounting records have not been kept by the chief financial officer so far as appears from the auditor's examination,

the auditor shall make a statement to that effect in the report made under subsection (4).

(6) An auditor shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate. Right of  
access

(7) The chief financial officer of the candidate shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (4). Co-operation  
required

#### FINANCIAL STATEMENTS

**169.**—(1) The chief financial officer of every registered candidate shall, within six months after polling day, file with the Commission, Filing of  
financial  
statements  
with  
Commission

(a) a financial statement setting out,

(i) all income received and expenses incurred in the campaign period,

(ii) all campaign expenses, paid and outstanding, incurred in a campaign period and a statement of all disputed claims, and

(iii) all information required to be recorded under section 161 that relates to the campaign period; and

(b) the auditor's report on the financial statement.

Filing of financial statements with clerk of municipality

(2) The chief financial officer shall, within six months after polling day, file a copy of the financial statement and the auditor's report referred to under subsection (1) with the clerk of the municipality who was responsible for the conduct of the election for which the registered candidate was registered.

Commission to prepare statement

(3) After the time for the filing of a financial statement and auditor's report has expired, the Commission shall immediately prepare a statement disclosing,

(a) the information received under this section; and

(b) the name of the registered candidate, if any, who failed to file a statement or report under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand to candidate to file

(4) After the time for the filing of the financial statement and auditor's report has expired, the Commission shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement and report, a notice in the form prescribed by the Commission demanding that the registered candidate file a financial statement and auditor's report within thirty days from the date of the notice.

Contents of demand notice

(5) The notice under subsection (4) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not, is ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the financial statement and auditor's report within thirty days of the date of the notice.

Publication of notice

(6) The Commission shall publish the notice under subsection (4) in a newspaper having general circulation in the municipality.

(7) After the thirty day period for the filing of a statement and report has expired, the Commission shall immediately prepare a supplementary statement disclosing,

Commission to prepare supplementary statement

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a financial statement and auditor's report within the thirty day period allowed under subsection (4),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

#### SURPLUS

**170.**—(1) Where the financial statement of a registered candidate filed under section 169 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next general election.

Surplus funds

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the clerk has been notified by the Commission under section 143 that the candidate has become registered under this Part for that election.

Release of funds, regular elections

(3) Where the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk, upon being so notified by the Commission, shall release the surplus to the candidate for use in whole or in part in that new election.

Idem, new elections

(4) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust under subsection (1) where the office for which the candidate has been, or will be, nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Restriction

(5) Where the candidate for whose benefit the surplus is held in trust under subsection (1),

Disposal of surplus

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;

- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered,

in the next regular election, the surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Idem

(6) Upon the repeal of any by-law passed under section 139 or any resolution passed under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Ineligibility  
respecting  
future  
elections

**171.**—(1) If a registered candidate,

- (a) fails to file a financial statement and auditor's report within thirty days of the date of the notice sent under subsection 169 (4);
- (b) files a financial statement and auditor's report that is either incorrect or does not comply with section 169 and fails to file a correction statement and report within thirty days from the date that the Commission files the statement under subsection 169 (4); or
- (c) incurs campaign expenses in excess of the amount permitted under section 166,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

Forfeiture  
of office

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall immediately notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility  
respecting  
future  
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has



forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

**172.**—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless before that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility where surplus not paid to clerk

(2) Where,

Office declared vacant

- (a) a registered candidate is declared elected;
- (b) the financial statement of the candidate shows a surplus; and
- (c) the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170,

the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, to which the candidate was elected and the office to which the candidate was elected shall be immediately declared vacant and, in addition, the candidate is liable to any other penalty that may be imposed under this Act.

(3) Where the office to which a registered candidate was declared elected is subsequently declared vacant under subsection (2), the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless prior to that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility respecting future elections

#### TAX CREDIT

**173.**—(1) Every individual who and every corporation or trade union which made a contribution to a candidate registered under this Part during the campaign period of an election may within one year of polling day apply, in the form prescribed by the Commission, to the clerk of the municipality

Tax credit

who was responsible for conducting the election to receive a tax credit.

Amount of  
tax credit

(2) The tax credit which a contributor is eligible to receive under subsection (1) is an amount equal to,

- (a) 75 per cent of the total amount contributed by the contributor to all candidates if the amount contributed does not exceed \$100;
- (b) \$75 plus 50 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$100 and does not exceed \$400; or
- (c) the lesser of,
  - (i) \$225 plus 33 1/3 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$400 if the total amount contributed exceeds \$400, and
  - (ii) \$350,

if payment of each amount that is included in the total amount contributed by the contributor to all registered candidates is proven by receipts in the form prescribed by the Commission that are signed by a recorded agent of the candidate.

Reduction of  
tax credits

(3) A tax credit under subsection (2),

- (a) shall first be applied by the clerk to reduce any arrears in taxes or other debts then owing to the municipality by the contributor; and
- (b) may be applied to offset current taxes, at the request of the contributor.

Payment of  
rebates

(4) Where the contributor does not owe any taxes or other debts to the municipality or does not make the request under clause (3) (b), the clerk shall pay to the contributor an amount equal to the amount of the tax credit which the contributor is eligible to receive under subsection (2).

Recovery of  
tax credit

(5) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional or metropolitan municipality, the clerk shall recover the amount of the tax credit pro-

vided to any contributor under subsection (3) or (4) from the regional or metropolitan municipality by billing the regional or metropolitan municipality for that amount.

(6) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in a school board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the school board by deducting that amount from any funds that the municipality is required to pay over to the school board.

Recovery of tax credit from school board

(7) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in a local board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the local board by billing the local board for that amount.

Recovery of tax credit from local board

(8) No tax credit shall be provided to a contributor under subsection (3) or (4) until the Commission has notified the clerk in writing that all of the financial statements and auditor's reports filed with it by the chief financial officers of the registered candidates in the election as required by section 169 have been examined.

Condition for giving tax credits

(9) Tax credits shall be issued to contributors only during the one-year period following receipt of the notice given by the Commission under subsection (8).

Time restriction

(10) No tax credit shall be provided to a contributor under subsection (3) or (4) for a contribution to a registered candidate where the chief financial officer of the candidate has failed to file the financial statement and auditor's report required by section 169 or where the financial statement and auditor's report of the candidate have been found by the Commission to be unsatisfactory.

Refusal of tax credit

(11) In this section, "tax credit" includes a rebate of contributions.

Interpretation

ACCESS TO DOCUMENTS

**174.**—(1) Documents filed with the Commission or the clerk of a municipality under this Part are public records and may be inspected by any person upon request at the office of the Commission or of the clerk during normal office hours.

Inspection of documents

(2) Any person may make extracts from the documents referred to in subsection (1) and is entitled to copies of the

Extracts and copies

documents upon payment for the preparation of the copies at such rate as the Commission may determine or at such rate as the clerk charges for the preparation of copies of other documents.

Not to be used for commercial solicitation

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the Commission or the clerk under this Part for the purpose of commercial solicitation.

#### FORMS

Form

**175.** All applications, returns, statements and other documents to be filed with the Commission shall be filed in the form prescribed by the Commission.

#### POWERS AND DUTIES OF COMMISSION

Powers and duties of Commission  
1986, c. 33

**176.** Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission in the administration of this Part.

#### OFFENCES

Offence, chief financial officer

**177.—**(1) The chief financial officer of a registered candidate who contravenes section 169 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Idem, candidate

(2) Where any contravention of this Part that is an offence by virtue of subsection (1) is committed by a chief financial officer of a registered candidate, the candidate for which the chief financial officer acts is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence, candidate

**178.** Where the total campaign expenses incurred by a registered candidate and any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 166 for the office subject to election, the registered candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 166.

Offence, candidate

**179.** Where the financial statement of a registered candidate shows a surplus and the surplus is not paid over to the clerk as required by section 170, the candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount of the surplus.

**180.** Every corporation or trade union that contravenes any of sections 143 to 174 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence,  
corporations,  
trade union

**181.** Every individual who contravenes any of sections 143 to 174, except subsection 148 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence,  
individuals

**182.** No person shall obstruct a person making an investigation or examination under this Part or withhold, conceal or destroy or alter any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

Obstruction  
prohibited

**183.** No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the Commission under this Part.

Prohibition,  
false  
statements

**184.** No person shall knowingly give false information to a chief financial officer or other person authorized to accept contributions.

Prohibition,  
false  
information

**185.—(1)** A prosecution for an offence under this Part may be instituted against a trade union in the name of the trade union and, for the purposes of any prosecution, the trade union shall be deemed to be a person.

Prosecution  
of trade  
unions

(2) Any act or thing done or omitted by an officer or agent of a trade union within the scope of the officer's or agent's authority on behalf of the trade union shall be deemed to be an act or thing done or omitted by the trade union.

Trade union  
liable for acts  
of agents

**186.** No prosecution shall be instituted under this Part without the consent of the Commission and no prosecution shall be instituted more than one year after the facts upon which the prosecution is based first came to the knowledge of the Commission.

Consent of  
Commission

**14.** Section 37 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by inserting after "qualified" in the first line "to be elected or".

**15.** Section 38 of the said Act is amended by adding thereto the following subsection:

(1a) A member of council who ceases to hold the qualifications required under clause 37 (a) is disqualified from holding the office of member of council.

Member to  
maintain  
eligibility

**16.—(1)** A notice of registration filed under section 122 of the *Municipal Elections Act*, as enacted by section 13 of this

Transition

Act, within sixty days of the coming into force of this Act, shall be deemed to have been filed on the 1st day of January, 1988.

Idem

(2) For the purpose of the 1988 regular elections, a municipality, school board or local board may pass a by-law or resolution to have Part III apply to the election if the by-law or resolution is passed within sixty days after the coming into force of this Act.

Commence-  
ment

**17.—(1)** Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Idem,  
transitional

(2) Sections 11, 12 and 13 shall be deemed to have come into force on the 1st day of January, 1988, and apply to contributions made and campaign expenses incurred on and after that date.

Idem

(3) Sections 3 and 5 come into force on the 1st day of January, 1991.

Short title

**18.** The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1988*.







# Bill 106

## **An Act to amend the Municipal Elections Act and the Municipal Act**

The Hon. J. Eakins  
*Minister of Municipal Affairs*

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*1st Reading*      April 5th, 1988  
*2nd Reading*     May 4th, 1988  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the General Government Committee)*

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## EXPLANATORY NOTES

The purpose of the Bill is to provide for limits on campaign contributions and expenses and for their disclosure to the voters after the election. There is provision for an optional tax credit system. The Bill also amends the recount process to provide for a recount by a recount officer, rather than by a judge, who will generally be the clerk, unless another person is appointed by the clerk.

The Bill also contains amendments designed to increase the accessibility to voting by doubling the number of mandatory advance polls, standardizing voting hours and proxy voting and also making the polls more accessible to disabled and physically challenged voters. The Bill will require candidates, once elected, to maintain the qualifications for their candidacy during the term of office.

The principal provisions of the Bill are as follows:

### *Municipal Elections Act*

**SECTION 1.** The proposed section 14a clarifies that a corporation is not eligible to vote in an election.

**SECTION 2.** A candidate would have to be registered before being entitled to copies of the preliminary list of voters.

**SECTIONS 3, 6 (3).** All advance polls are to be accessible to disabled persons and persons having a mobility impairment for the 1988 election and all polls are to be accessible to such voters for the 1991 election.

**SECTIONS 4, 6 (2).** The voting hours for both regular and advance polls are to be 10 a.m. to 8 p.m.

**SECTION 5.—Subsection 1.** Subsection 66 (1) is amended to provide for a second mandatory advance poll to be held on the Thursday before polling day.

**SECTION 6.** Subsection 67 (1) is re-enacted to allow any elector to vote by proxy so that it is no longer necessary to show physical incapacity or absence from one's regular residence to attend school.

**SECTIONS 7, 8 and 9.** The existing recount process would be replaced in the new sections 83 to 88j. The essential features are as follows:

1. The municipal clerk is the recount officer, unless the clerk appoints another person prior to polling day or the clerk has participated in the counting of the ballots or is unable to conduct the recount.
2. A recount is automatic if the vote spread between the winner and the runner-up is less than .5 for each poll or less than ten votes, whichever is greater, and is requested by a candidate within seven days from the date of the results. A recount continues to be held in the case of a tied vote.
3. Recounts may, as at present, be requested by the council, school board or local board within thirty days of the declaration of results.
4. Any elector who has reasonable grounds may apply for a recount to a judge and the judge shall determine whether one is to be held by the recount officer. The application to the judge is to be commenced no later than thirty days after the declaration of results.
5. The municipality, school board or local board involved shall pay the cost of a recount including reasonable remuneration for and the expenses of persons appointed as assistant recount officers and other assistants, except where the

recount was held at the request of a candidate for election to a school board or local board or at the request of such board in which case the board is to pay the remuneration and expenses.

**SECTIONS 10, 11 and 12.** Section 121 which enabled council to pass a by-law regulating election contributions and expenses and requiring their reporting is repealed and replaced by a mandatory system set out in Part II, which provides for the following:

1. There is a limit of \$750 per individual contribution.
2. Limits are placed on expenses based on a formula relating to the number of electors at \$5,500 for each council head and \$3,500 for candidates for other offices plus 50 cents per elector in each ward, municipality, local board or school jurisdiction.
3. A person is required to register by filing a notice with the clerk no earlier than the 1st day of January in an election year and no later than nomination day. Contributions cannot be accepted unless a person is a registered candidate.
4. Contributions can only be made during the campaign period defined to commence on the 1st day of January of an election year and ending on March 31st in the year following an election year.
5. A registered candidate may appoint a chief financial officer.
6. A fund-raising function can only be held during the campaign period.
7. A candidate will be required to file with the clerk no later than the 30th day of June in the year following the election year a statement of expenses and contributions the nature of which will be determined by the amount of the expenses and contributions.
8. The clerk must submit a statement to the council or board showing the information received from candidates and the names of any candidates who have failed to file.
9. If a registered candidate fails to make the required disclosure within thirty days of a written demand or fails to correct an incorrect statement within thirty days or where the candidate's campaign expenses exceed the statutory limits, that candidate is ineligible to hold elected office up to and including the next regular election.
10. If an elected candidate fails to make the required disclosure within the thirty day demand period or has exceeded the statutory limits, the clerk is to notify the candidate and the council or board to which the candidate was elected. The office then becomes vacant and the former elected candidate is ineligible to hold elected office up to and including the next regular election.
11. In addition to the above penalties, a corporation or trade union may be fined up to \$10,000 for a contravention of sections 122 to 134 and an individual may be fined up to \$1,000 for a contravention of sections 122 to 134, excluding subsection 124 (7).

A council, school board or local board has the option of adopting the proposed Part III so that contributors can obtain tax credits which are payable by the jurisdiction involved. Part III establishes identical limits on contributions and expenses with similar disclosure requirements to those contained in Part II as well as identical penalties as to ineligibility and disqualification.

The essential differences between Parts II and III of the Bill are that Part III provides for the following:

1. A candidate must register with the Commission on Election Finances established under the *Election Finances Act, 1986* which administers this Part.
2. The candidate must appoint a chief financial officer.
3. The candidate must also appoint an auditor whose duties are set out with respect to the financial statements that are to be filed by the chief financial officer.
4. Political advertising paid by others and costing in excess of \$100 is considered a contribution and, if done during the campaign period, a campaign expense.
5. Media campaign advertising is restricted to the twenty-eight day period before polling day.
6. The chief financial officer of every candidate is required to file with the Commission, no later than the 30th day of June in the year following an election year, an audited statement of expenses and contributions.
7. The Commission performs the same functions as the clerk under Part II in regard to candidates who fail to comply with the disclosure requirements.
8. A candidate is to turn any surplus over to the clerk who is to hold it in trust for the candidate in the next election. If the candidate decides not to seek nomination in the next election, the surplus is to be paid into the general fund of the municipality or board. Failure to turn over the surplus renders the candidate ineligible to be nominated at the next election, unless in the meantime the surplus is paid over. In the case of an elected candidate, the office is declared vacant.
9. Every contributor is to receive a tax credit or rebate from the municipality based on the following:
 

<i>Contribution</i>	<i>Tax Credit or Rebate</i>
Up to \$100	75% of contribution
\$100 to \$400	\$75 plus 50% of excess over \$100
Over \$400	the lesser of, <ol style="list-style-type: none"> <li>(a) \$225 plus 33.33% of excess over \$400 or,</li> <li>(b) \$350</li> </ol>
10. No tax credits or rebates are to be provided until the Commission has notified the clerk that all the required statements have been filed.

***Municipal Act***

**SECTIONS 13 and 14.** Sections 37 and 38 of the *Municipal Act* are amended to clarify that a person must hold the qualifications for office to be elected and must continue to hold the qualifications during the term of office.

Bill 106

1988

**An Act to amend the  
Municipal Elections Act and the Municipal Act**

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

**1.** The *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

**14a.** No corporation is eligible to vote in any election.

Corporation  
not eligible  
to vote

**2.** Subsection 25 (6) of the said Act is repealed and the following substituted therefor:

(6) Every registered candidate, as defined in section 121 or section 138, is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election.

Registered  
candidate  
entitled to  
copies

**3.** Subsection 46 (1) of the said Act is amended by inserting after "electors" in the fourth line "allows easy access to persons who have a physical disability or a mobility impairment".

**4.** Section 52 of the said Act is amended by striking out "11" in the second line and inserting in lieu thereof "10".

**5.**—(1) Subsection 66 (1) of the said Act is amended by inserting after "day" in the third line "and on the Thursday immediately before polling day".

(2) Subsection 66 (3) of the said Act is amended by striking out "9" in the first line and inserting in lieu thereof "10".

(3) Subsection 66 (4) of the said Act is amended by inserting after "necessary" in the second line "shall select locations that allow easy access to persons who have a physical disability or a mobility impairment".

**6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted therefor:**

Who may  
vote by  
proxy

(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 may vote by proxy in the polling subdivision.

**7. Section 82 of the said Act is repealed.**

**8. Section 83 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 14, is repealed and the following substituted therefor:**

#### RECOUNTS

Recount  
officer

**83.—(1)** The clerk of every municipality, at the same time as the clerk appoints officials under section 4, may appoint a person as recount officer.

Disqualifi-  
cation

(2) No person who is a candidate or who is less than eighteen years of age shall be appointed a recount officer.

Oath

(3) A recount officer shall, before performing any duties, take the oath in the prescribed form.

**9. Sections 84, 85, 86, 87 and 88 of the said Act are repealed and the following substituted therefor:**

Clerk as  
recount  
officer

**84.—(1)** If a recount officer is not appointed under subsection 83 (1), subject to subsections (2) to (5), the clerk of a municipality is the recount officer for elections within the municipality or any part of it.

Recount  
officer,  
regional  
chairman

(2) The clerk of the area municipality with the greatest number of electors is the recount officer for the election of the chairman of a regional municipality.

Recount  
officer, police  
village

(3) The clerk of the municipality in which a police village is located is the recount officer for the election of the trustees of the police village.

Idem

(4) If the police village is located in two or more municipalities, the clerk of the municipality having the largest number of electors in the police village is the recount officer for the election of the trustees.

Recount  
officer,  
school  
trustees  
R.S.O. 1980,  
c. 129

(5) The returning officers of municipalities that hold elections for school trustees under the *Education Act* are recount officers for the election of the school trustees.

(6) Where the recount officer of a municipality has participated in the actual counting of the ballots for a polling subdivision in an election or, for any reason, is unable to conduct a recount arising as a result of the election, the recount officer shall immediately appoint a person to act as the recount officer for that election who is not disqualified under subsection 83 (2). Recount officer replacement

(7) A person need not be appointed under subsection (6) if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the recount officer participated in the actual counting of the ballots. Exception

**85.—**(1) The recount officer is responsible for the proper preparation for and conduct of a recount in the election and, for this purpose, shall direct the training of persons appointed under this section and supervise their work. Duty of recount officer

(2) The recount officer may appoint assistant recount officers and may provide for such clerical and other assistance as is necessary to conduct a recount. Assistants

(3) No person shall be appointed under this section who, Disqualification

- (a) is a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(4) Clause (3) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be appointed an assistant recount officer participated in the actual counting of the ballots. Exception

(5) The recount officer may in writing delegate to the assistant recount officers such rights and duties in relation to the preparation for and conduct of a recount as the recount officer considers necessary, but such delegation does not preclude the continued exercise of those rights and performance of those duties by the recount officer. Delegation by recount officer

(6) The recount officer may appoint persons to aid in maintaining peace and order at the recount. Other appointments

(7) Every recount officer, assistant recount officer, scrutineer and any other person authorized to attend and serve at a Oath

recount shall, before performing any duties, take the oath in the prescribed form.

Who may  
administer  
oaths

(8) The recount officer may administer any oath required in relation to a recount, and assistant recount officers may administer any such oath except an oath to be taken by the recount officer.

Remuner-  
ation and  
expenses

(9) The municipality shall pay to persons appointed under this section reasonable remuneration and the expenses incurred in attending the recount, but if the recount has been held at the request of a school board or a local board or at the request of a candidate for election to a school board or local board, the school board or local board, as the case may be, shall pay the remuneration and expenses.

Certification  
of expenses

(10) The expenses under subsection (9) shall be paid out only upon presentation of a certificate signed by the clerk of the municipality verifying the amount payable.

Tie votes,  
recount

**86.**—(1) If,

- (a) two or more candidates nominated for the same office have an equal number of votes and both or all of the candidates cannot be declared elected to the office; or
- (b) the votes for the affirmative and negative on a by-law or question are equal,

the recount officer shall, after the tied vote has been publicly announced, immediately appoint a time and place to hold a recount of the votes cast for those candidates or on the by-law or question.

When  
recount to  
be held

(2) The time appointed by the recount officer for a recount under subsection (1) shall be no later than seven days after the declaration of the results of the election under subsection 79 (2) or 79 (3).

Where vote  
is close

**86a.**—(1) If the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes, is less than one half of one vote for each polling subdivision in the election for that office, or less than ten votes, whichever is greater, the results shall be included in the statement required under subsection 79 (2) or 79 (3).



(2) If subsection (1) applies and if a candidate who was not declared elected so requests in writing, the recount officer shall hold a recount. Recount on request

(3) A request for a recount under subsection (2) shall be made to the recount officer not later than seven days after the declaration of the results of the election under subsection 79 (2) or 79 (3). When request for recount to be made

(4) Upon receiving a request for a recount under this section, the recount officer shall appoint a time and place for the recount. Time and place for recount

(5) The time appointed by the recount officer for a recount under subsection (4) shall be no earlier than ten days and no later than twenty days after the request for the recount is received. When recount to be held

**86b.**—(1) Following an election for the members of the council of a municipality, regional municipality or metropolitan municipality or of a school board or of a local board, where a recount of the votes for the office or for the affirmative or negative on any by-law or question is considered to be in the public interest, the council, school board or local board, as the case may be, may pass a resolution requiring the recount officer to hold a recount. Recount resolution

(2) A resolution for a recount under subsection (1) shall be passed no later than thirty days after the declaration of the results of the election under subsection 79 (2) or 79 (3). When resolution to be passed

(3) If a resolution for a recount is passed under subsection (1) within the time period set out in subsection (2), the recount officer shall appoint a time and place for the recount. Time and place for recount

(4) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days after the passing of the resolution under subsection (1). When recount to be held

**87.**—(1) If, in any election, an elector has reasonable grounds for believing that, Application for recount by elector

- (a) the votes have been improperly counted or any ballot has been improperly rejected;
- (b) an incorrect statement of the number of votes for any candidate or for or against any by-law or question has been made; or
- (c) the votes have been improperly added up,

the elector may apply to a judge of the District Court of the county or district in which the municipality or part thereof or the administrative or head office of the school board or local board is situate for a determination whether a recount should be held.

Affidavit and  
deposit to  
accompany  
application

(2) An application for a recount under subsection (1) shall be commenced no later than thirty days after the declaration of the results of the election under subsection 79 (2) or 79 (3) and shall be accompanied by,

- (a) an affidavit or affidavits setting out the grounds for the recount and the facts in support of those grounds; and
- (b) a deposit in the sum of \$100 as security for the costs in connection with the application.

Contents of  
affidavit

(3) An affidavit under clause (2) (a) shall be confined to facts within the personal knowledge of the person making the affidavit or to other evidence that this person could give if testifying as a witness in court.

Form of  
deposit

(4) A deposit under clause (2) (b) shall be in the form of cash or in the form of a money order or certified cheque made payable to the local registrar of the District Court, or in any combination thereof.

Parties to  
be served

(5) Copies of the notice of application, the application for a recount and affidavits in support of the application shall be served by the applicant,

- (a) where the application concerns an election to office, upon each candidate for that office; and
- (b) upon the recount officer.

Disposition  
of  
application,  
etc.

(6) The judge, if satisfied that there are sufficient grounds for a recount, shall order that a recount be held by the recount officer and may determine which ballot boxes, if any, shall be opened for the purpose of the recount.

Where  
recount  
ordered

(7) If the judge has ordered a recount, the judge shall immediately notify the recount officer in writing and the recount officer shall appoint a time and place to hold the recount.

When  
recount to  
be held

(8) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days

following the date the recount officer receives the notice from the judge.

(9) The costs with respect to a recount conducted under this section are in the discretion of the judge ordering the recount who may order by whom, to whom and in what manner the costs shall be paid.

**88.—**(1) The recount officer shall give at least six days notice in writing of the time and place of the recount to,

- (a) the candidate who requested the recount, the council or school board or local board which passed the resolution for the recount, or the elector who applied to the judge for the recount, as the case may be;
- (b) the candidates for the office which is the subject of the recount;
- (c) if the recount officer is not the returning officer of the municipality, the returning officer of the municipality; and
- (d) if the recount concerns the election of chairman of a regional municipality, the trustees of a police village or the members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality.

(2) The recount officer shall attend the recount and bring the ballot boxes and all documents relating to the election.

(3) If the recount officer is not the returning officer of the municipality, the returning officer of the municipality, or a person appointed by the returning officer, shall attend the recount and bring the ballot boxes and all documents relating to the election.

(4) If the recount concerns the election of chairman of a regional municipality or of trustees of a police village or of members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality, or a person appointed by the clerk, shall attend the recount and bring the ballot boxes and all documents relating to the election.

(5) Each candidate for an office to which the recount relates and the elector, if any, who applied for the recount are entitled to be present and to be represented by counsel and to

Costs

Notice of  
recountAttendance of  
recount  
officerWhere  
recount  
officer not  
returning  
officerRegional  
chairman,  
police village  
and school  
board  
electionsWho may be  
present

have present a scrutineer appointed for that purpose, and, where the recount relates to a by-law or question, such persons as the council may appoint as scrutineers are entitled to be present, but no other person, except with the permission of the recount officer, is entitled to be present at the recount.

Application  
of certain  
provisions

(6) Subsections 4 (8) and (10) and sections 6 and 7 apply with necessary modifications to scrutineers appointed under subsection (5).

What ballots  
involved in  
recounts

**88a.**—(1) If a recount relates to the election of a candidate, the recount shall be of the votes cast,

- (a) where subsection 86 (1) applies, for the two or more candidates who have an equal number of votes;
- (b) where subsection 86a (1) applies, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected and for the defeated candidate or candidates who received enough votes for the same office to fall within the margin of votes prescribed by that subsection; and
- (c) in all other cases, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected by the returning officer and for the defeated candidate who received the highest number of votes for the same office.

Recount of  
votes cast  
for other  
candidates

(2) Notwithstanding subsection (1), the recount officer may conduct a recount of the votes cast for any other candidate whose election or right to any other office may be affected by the recount conducted under subsection (1).

Procedure at  
recount

**88b.**—(1) At the time and place appointed for the recount, and in the presence of those persons who are entitled to be present and who have attended, the recount officer shall add the votes from the statements returned to the returning officer by the deputy returning officers, or shall count the ballots received by the returning officer from the deputy returning officers and the number of votes counted at the election, or both, as the recount officer considers appropriate, and for this purpose shall open the sealed envelopes containing,

- (a) the ballots that were not objected to and were counted;
- (b) the ballots that were objected to but were counted;
- (c) the rejected ballots;
- (d) the cancelled ballots;
- (e) the ballots that were used but were unmarked;
- (f) the declined ballots; and
- (g) the unused ballots.

(2) Subject to sections 88c and 88d, the recount officer, in conducting the recount, shall determine the validity of ballots, and shall verify or correct the statement of the vote for each polling subdivision. Verification of statement of the vote

**88c.**—(1) A candidate, a representative of the candidate or a scrutineer who objects to the validity of a ballot or to the counting of votes in any ballot may request that the recount officer make an application to a judge of the District Court for an order determining the validity of the ballot. Application to judge

(2) If the recount officer fails to make an application within five days of a request being made under subsection (1), the party making the request may apply directly to a judge of the District Court. Direct application

(3) No hearing under subsection (1) shall be held until the recount officer has complied with subsection 88b (2). When hearing to be held

(4) If an application is made under subsection (1), the recount officer shall, Procedure where application made

- (a) write the number of the polling subdivision on the back of and initial any disputed ballots that are the subject of the application and seal them in a separate envelope clearly marked so as to indicate its contents;
- (b) give at least six days notice in writing of the time and place of the hearing of the application to the parties to the recount; and
- (c) make suitable arrangements for the safekeeping of any ballots that are not the subject of the appli-

cation and any documents relating to the election that are not relevant to the application.

Attendance  
of recount  
officer at  
hearing

(5) The recount officer shall attend the hearing of the application and bring the envelope containing the disputed ballots that are the subject of the application and any documents relating to the election that are relevant to the application.

Procedure  
at hearing

(6) The judge, in the presence of the persons entitled to be present at the recount and who have attended the hearing, shall determine the validity of the ballot or to the counting of votes in any ballot and for this purpose shall open the sealed envelope containing the disputed ballots.

Distin-  
guishing  
disputed  
ballots

(7) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, notwithstanding any order to the contrary made by the judge under this section, is disputed by the party and seal the disputed ballots in a separate envelope clearly marked so as to indicate its contents.

Procedure on  
completion  
of hearing

(8) Upon completion of the hearing, the judge shall make an order determining the validity of the ballot and shall,

- (a) advise the persons present of the order;
- (b) except as provided by subsection (7), seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b), along with any documents relating to the election that were examined during the course of the hearing, to the custody of the recount officer.

Judge to  
give order  
to recount  
officer

(9) The judge shall give a certified copy of the order to the recount officer unless, within five days following the hearing, the judge receives a notice of appeal under section 88j.

Recount  
officer to  
complete  
recount

(10) Upon receipt of the judge's order, the recount officer shall complete the recount.

Costs of  
application

(11) Subject to subsection (12), the costs of the application shall be borne by the municipality, school board or local board to which the recount relates.

Idem

(12) If the judge finds that any objection is frivolous or vexatious, the judge may order that the costs of the application be paid by the person who made the objection.

(13) Upon the expiry of the time for appeal from a decision of the judge, if no appeal has been taken, the judge shall return the envelope described in subsection (7) to the custody of the recount officer.

Where no appeal, envelope to be returned

**88d.** Notwithstanding section 88c, if a party to the recount requests the recount officer to do so, the recount officer shall write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

Distinguishing disputed ballots

**88e.**—(1) Upon completion of the recount, the recount officer shall,

Procedure on completion of recount

- (a) announce the result to the persons present at the recount; and
- (b) except as provided in section 88d, seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents.

(2) The recount officer shall certify in writing the result of the recount, unless, within five days following the completion of the recount, the recount officer receives a notice of appeal under section 88j.

Certification by recount officer

(3) Following certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

Declaration of result by returning officer after recount, etc.

**88f.**—(1) In the case of a tied vote for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount, the successful candidate shall be determined by lot conducted by the recount officer.

Tied votes

(2) The lot shall be conducted by placing the names of the candidates on equal size pieces of paper in a box, and the name drawn by the recount officer shall be the successful candidate.

Method of conducting lot

**88g.** The costs of the recount, unless otherwise ordered by a judge, shall be borne by the municipality, school board or local board to which the recount relates.

Costs of recount

**88h.**—(1) Upon the expiry of the time for appeal from a decision of the recount officer, if no appeal has been taken,

If no appeal, envelopes to be returned

the recount officer shall return the envelopes described in section 88d and clause 88e (1) (b) to the custody of the appropriate clerk or returning officer.

Documents  
not required  
on appeal

(2) If an appeal is taken from the decision of the recount officer on the recount, the recount officer shall return the envelopes of ballots and the original statements of the vote described in clause 88e (1) (b) that are not required for the appeal to the custody of the appropriate clerk or returning officer.

Right to sit  
pending  
recount

**88i.**—(1) A candidate declared elected is entitled to sit on the council, school board or local board notwithstanding that a request or application for a recount has been filed or a resolution for a recount has been passed, but where the recount determines that some other person was elected, that other person is, notwithstanding that an appeal is pending, entitled to sit and vote until the appeal is disposed of.

Decisions  
not affected

(2) A decision of a council, school board or local board reached with the participation of a member who is subsequently declared not to be entitled to sit on the council, school board or local board is not affected by that participation.

#### APPEAL FROM DECISION OF JUDGE OR RECOUNT OFFICER

Appeal from  
decision of  
judge or  
recount  
officer

**88j.**—(1) Any party may appeal to the Divisional Court from the decision of the judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service  
of notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that the judge of the Divisional Court may direct.

Documents  
to be  
forwarded

(3) The judge or recount officer shall forward to the Registrar of the Supreme Court by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the



subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and

- (d) if the appeal is not limited, all of the ballots, in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

(4) The judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (9) or 88e (2). Certificate to be issued after appeal

(5) The judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the Registrar. Copy of certificate

(6) On receipt of the ballots, notice and statement, the Registrar shall immediately obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(7) One judge of the Divisional Court shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the judge of the District Court or to the recount officer. Determination by Divisional Court

(8) The judge or recount officer, in compliance with the decision of the Divisional Court, shall certify the result without delay. Certificate to reflect decision

**10.** Subsection 103 (2) of the said Act is repealed.

**11.** Section 121 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 25 and amended by 1985, chapter 4, section 10, is repealed.

**12.** The said Act is further amended by adding thereto the following Parts:

PART II

**121.—(1)** In this Part, Definitions

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and con-

tributions of goods and services to the registered candidate, but does not include,

- (a) audit and accounting fees,
- (b) interest on loans under section 127,
- (c) an expense incurred in holding a fund-raising function referred to in section 126,
- (d) an expense incurred for victory parties held and appreciation notices published after polling day,
- (e) an expense relating to a recount in respect of the election, and
- (f) an expense relating to an action commenced under section 106;



“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
  - (i) an order to hold a new election is given in any judicial proceedings,
  - (ii) the council of the municipality passes a by-law to hold a new election,
  - (iii) the clerk receives from the secretary of a school board notice that a new election is required, or
  - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
c. 302

and ending,

- (c) in the case of a regular election, on the 31st day of March in the year following the election year, or
- (d) in the case of a new election, 135 days after polling day;



“contribution” means a contribution made to a registered candidate or representative of a registered candidate for pur-

poses of the election of the registered candidate at the next election, but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour, and
- (b) any service voluntarily performed for a registered candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township, regional municipality or metropolitan municipality;

"registered candidate" means a candidate registered under section 122;

"trade union" means a trade union as defined in the *Labour Relations Act* or the *Canada Labour Code* that holds bargaining rights for employees in Ontario to whom those Acts apply and includes any central, regional or district labour council in Ontario.

R.S.O. 1980,  
c. 227  
R.S.C. 1970,  
c. L-1

(2) Where a corporation is associated with another corporation under section 256 of the *Income Tax Act* (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125 (6) (d) of the *Income Tax Act* (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this Part.

Associated  
corporations  
R.S.C. 1952,  
c. 148

## REGISTRATION

**122.**—(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form.

Registration  
of candidate

(2) In the case of a new election, the notice of registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

Registration  
in new  
elections

- (a) an order to hold a new election is given in any judicial proceedings;

- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of the school board notice that a new election is required; or
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
c. 302

and no later than nomination day.

When  
candidate  
registered

(3) A person who files a notice of registration under subsection (1) becomes a registered candidate on the day of filing.

No contri-  
butions to  
unregistered  
candidate

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

Register

(5) The clerk shall keep a register of every person who has filed a notice of registration under subsection (1) setting out,

- (a) the date that the registered candidate is duly nominated under section 36;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every chartered bank, trust company or other financial institution in Ontario

that is used by or on behalf of the registered candidate for the deposit of any contributions;

- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g); and
- (i) the date of registration.

(6) A notice of registration under subsection (1) may be filed with the clerk by registered mail in which case it shall be deemed to be filed on the day it is mailed.

Effective date of registration

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

Where registered candidate withdraws, etc.

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;
- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,

and the registered candidate or the chief financial officer shall file with the clerk the statement referred to in section 132.

(8) If the information referred to in subsection (5) is altered, the registered candidate shall immediately notify the clerk in writing of the alteration and, upon receipt of the notice, the clerk shall vary the register accordingly.

Variation of register

CHIEF FINANCIAL OFFICERS

**123.**—(1) Every person who proposes to be a candidate may appoint a chief financial officer before or after filing the notice of registration with the clerk.

Chief financial officer

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the clerk of the full name and address of the new chief financial officer.

Replacement

(3) The chief financial officer shall be responsible for ensuring that,

Duties of chief financial officer

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in the appropriate accounts;
- (c) proper receipts are completed;
- (d) the financial statements required under section 132 and the auditor's report on the statements are filed with the clerk;
- (e) contributions consisting of goods or services are valued and recorded; and
- (f) proper direction is given to persons authorized to incur expenses.

Where  
no chief  
financial  
officer

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is responsible for the duties set out in subsection (3).

#### CONTRIBUTIONS

Contributions

**124.**—(1) Contributions to registered candidates may be made only by individuals, corporations and trade unions and may be made only during the campaign period.

Contributions  
to be made  
in campaign  
period

(2) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept contributions at any time other than during the campaign period.

How contri-  
butions of  
money to be  
made

(3) Money contributions to registered candidates in amounts in excess of \$25 shall only be made by,

- (a) a cheque having the name of the contributor legibly printed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit of  
funds

(4) All moneys accepted by or on behalf of a registered candidate shall be paid into an account registered with the clerk under subsection 122 (5).

(5) If the registered candidate or the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the registered candidate or the chief financial officer shall, within thirty days after so learning and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

Refund of contributions

(6) Any contributions not returned to the contributor under subsection (5) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the clerk and become part of the general funds of the municipality.

Anonymous contributions payable to municipality

(7) No individual, corporation or trade union shall make a contribution in money, goods and services to any registered candidate which in total exceeds \$750 in value during any campaign period.

Limitation on contributions

(8) Any moneys used for an election campaign by a registered candidate out of the registered candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this section, but the limit on the total amount of contributions established under subsection (7) does not apply in respect of those funds.

Registered candidate's funds, spouses's funds

(9) Every registered candidate shall submit to the clerk at the same time as the financial statement is filed under section 132, a statement in writing setting out campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the registered candidate, together with all receipts and claims for those expenses.

Statement to be submitted to clerk

**125.**—(1) No individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to that individual, corporation or trade union.

Contributor to contribute only funds belonging to contributor

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the registered candidate shall solicit or accept any contribution contrary to subsection (1).

Prohibition

(4) No registered candidate shall accept funds from,

No funds from political parties, etc.

1973-74,  
c. 14 (Can.)

(a) a federal political party registered under the *Canada Elections Act* or any federal constituency association or registered candidate at a federal election endorsed by such federal political party; or

1986, c. 33

(b) a provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act, 1986*.

Receipts

(5) A registered candidate shall issue receipts for every contribution accepted.

Group contri-  
butions

(6) A contribution to a registered candidate made through an unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

Application  
to amounts  
making up  
contribution

(7) The amounts making up a contribution under subsection (6) that are attributable to an individual, corporation or trade union are contributions of that individual, corporation or trade union for the purposes of subsection 124 (7).

Receipt of  
excess contri-  
butions  
prohibited

(8) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept any contributions in excess of the limits imposed under subsection 124 (7).

Restriction  
on contri-  
butions

(9) No registered candidate shall directly or indirectly solicit or accept contributions from,

- (a) an individual normally resident outside Ontario;
- (b) a corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

Trade  
unions,  
contributions

(10) Contributions of not more than 15 cents per month by a member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of section 124 and this section, but any amount contributed to a registered candidate shall be deemed to be a contribution from the trade union.

Record of  
contributions  
to be kept

(11) Every registered candidate shall keep a record of all contributions in excess of \$25 or having a value in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contribu-



tions from a single source that in the aggregate exceed \$100, the name and address of the contributor.

**126.**—(1) In this section, “fund-raising function” means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held.

Definition

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period.

When fund-raising functions to be held

(3) The gross income from a fund-raising function shall be recorded and reported to the clerk by the registered candidate or the chief financial officer.

Income to be reported

(4) If a charge is made for a fund-raising function by the sale of tickets or otherwise, any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate, be considered not to be a contribution.

Where charge may be considered not a contribution

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of current market value shall be considered a contribution.

Where amounts to be considered contributions

(6) If a meeting is held on behalf of or in relation to the affairs of a registered candidate and money is given in response to a general collection of money solicited from the persons in attendance at the meeting, no amount shall be given anonymously by any person in excess of \$10 and the amounts so given shall be considered not to be contributions, but the gross amount collected shall be recorded and reported to the clerk by the registered candidate or the chief financial officer.

Collection of money at meetings

#### BORROWING

**127.**—(1) A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the registered candidate and reported to the clerk in the financial statement filed under subsection 132 (1).

Borrowing

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1).

Limitation

## LOAN GUARANTEE

Guarantee of loan to registered candidates prohibited

**128.**—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception

(2) An individual, corporation or trade union that is eligible to make a contribution may guarantee any loan referred to in subsection 127 (1).

Guarantee as contribution

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 127 (1) is considered to be a contribution under section 124.

## CAMPAIGN EXPENSES

Authority to incur campaign expenses

**129.**—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the registered candidate by persons authorized by the registered candidate.

Certificate of authority

(2) Every person authorized to incur a campaign expense shall, upon request, show a certificate, in the prescribed form, signed by the registered candidate as proof of the authority.

Record of campaign expenses

(3) Every registered candidate shall keep a record of all campaign expenses.

Limitation on campaign expenses

(4) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation, trade union or unincorporated association acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed the aggregate amount of \$5,500 plus \$0.50 per elector.

Idem

(5) Subject to subsection (6), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality if this office is required to be filled by the vote of the electors of an area municipality; or

- (c) member of a school board or of a local board whose members are to be elected at elections required to be conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation, trade union or unincorporated association acting on behalf of the registered candidate during the period commencing with the date of registration and ending on polling day in the election shall not exceed the amount of \$3,500 plus \$0.50 per elector.

(6) If the municipality or the school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of the wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Limitation on campaign expenses, ward elections

(7) For the purpose of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Determination of number of electors by returning officer

(8) After determining the number of electors under subsection (7), the clerk shall calculate, for each office, the maximum amount of campaign expenses that may be incurred by a registered candidate under subsection (4), (5) or (6), as applicable, certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or send by registered mail a copy of the certificate to each registered candidate for the office.

Calculation and certification of maximum campaign expenses by returning officer, etc.

(9) Certification of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office by the clerk under subsection (8) shall be conclusive evidence of that fact and shall not be open to challenge.

Certificate conclusive

**130.**—(1) Every individual, corporation or trade union that has any claim for payment in relation to a campaign expense shall submit the claim after polling day to the registered candidate who incurred the expense,

Time for submission of claims for payment

- (a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or

- (b) in the case of a new election, no later than 135 days after polling day. ▲

Payment of expenses by registered candidate

(2) Every payment of a campaign expense shall be made by the registered candidate or the chief financial officer who incurred or on whose behalf the campaign expense was incurred and, except where the campaign expense is less than \$25, a receipt shall be obtained setting out the particulars and proof of payment.

Method of payment

(3) Payment of any campaign expense shall be made by cheque drawn on an account registered with the clerk under subsection 122 (5).

Disputed claims

(4) If the registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

#### AUDITORS

Appointment of auditor

**131.**—(1) If contributions received by a registered candidate exceed \$10,000 or expenses incurred by the registered candidate exceed \$10,000 during the campaign period, the registered candidate shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately inform the clerk of the full name and address of the auditor.

R.S.O. 1980, c. 405

Report of auditor

(2) The auditor shall make a report to the registered candidate or the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 132, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards. ▼

Change of auditors

(3) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (4), the candidate shall immediately appoint another auditor licensed under the *Public Accountancy Act* and shall immediately notify the clerk of the full name and address of the auditor.

R.S.O. 1980, c. 405

Persons not eligible to be auditors

(4) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate. ▲

Report of auditor

(5) If,

- (a) the auditor has not received from the registered candidate or the chief financial officer all the information and explanation that is required to make the report; or
- (b) proper accounting records have not been kept by the registered candidate or the chief financial officer,

the auditor shall make a statement to that effect in the report made under subsection (2).

(6) An auditor appointed under subsection (1) shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate. Right of access

(7) The registered candidate or the chief financial officer shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (2). Co-operation required

#### STATEMENTS, REPORTS AND STATUTORY DECLARATIONS


132.—(1) Subject to subsections (3) and (4), every registered candidate shall file with the clerk who was the returning officer in the election a financial statement and auditor's report in the prescribed form which shall contain, Filing of financial statement

- (a) all income received and expenses incurred in the campaign period;
- (b) a list of contributions in the form of goods or services and the value of them received by or on behalf of the registered candidate during the campaign period;
- (c) the name, address and contribution of each individual, corporation or trade union that made a contribution, whether in the form of money, goods or services, if the contribution was more than \$100; and
- (d) a list of campaign expenses, paid and outstanding, incurred in a campaign period and a statement of disputed claims.

(2) The financial statement and auditor's report under subsection (1) shall be filed, idem

- (a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or
- (b) in the case of a new election, no later than 225 days after polling day.

Where report  
sufficient

(3) If the contributions received by or on behalf of a registered candidate do not exceed \$10,000 or expenses incurred by or on behalf of the registered candidate do not exceed \$10,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a report in the prescribed form containing the information required in subsection (1). 

Where  
statutory  
declaration  
sufficient

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$1,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$1,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration in the prescribed form to that effect.

Clerk  
to prepare  
statement

(5) After the time for the filing of a statement, report or declaration under subsection (1), (3) or (4) has expired, the clerk shall immediately prepare a statement in the prescribed form disclosing,

- (a) the information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand  
to candidate  
to file

(6) After the time prescribed for making full disclosure under subsection (1) has expired, the clerk shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement, report or declaration, a notice in the prescribed form demanding that the registered candidate file a statement, report or declaration within thirty days from the date of the notice.

Contents  
of demand  
notice

(7) The notice under subsection (6) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not elected, shall be ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the

statement, report or declaration within thirty days of the date of the notice.

(8) The clerk shall post a notice of non-compliance in the prescribed form in two conspicuous places in the municipality and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

Publishing  
notice of  
non-compliance

(9) After the thirty day period for the filing of a statement, report or declaration has expired, the clerk shall immediately prepare a supplementary statement in the prescribed form disclosing,

Clerk  
to prepare  
supple-  
mentary  
statement

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section, within the thirty day period allowed by subsection (6),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

**133.—(1)** If a registered candidate,

Ineligibility  
respecting  
future  
elections

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6);
- (b) files a financial statement, a report or statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date that the clerk files the statement under subsection 132 (5); or
- (c) incurs campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has

Forfeiture  
of office

exceeded the amount referred to in clause (1) (c), the clerk shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility  
respecting  
future  
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

#### ACCESS TO DOCUMENTS

Inspection of  
documents

**134.**—(1) Documents, financial statements, reports and declarations filed with the clerk under this Part are public records and may be inspected by any person upon request at the office of the clerk during normal office hours.

Extracts and  
copies

(2) Any person may make extracts from the statements, reports or declarations referred to in subsection (1) and is entitled to copies thereof upon payment for the preparation of the copies at such rate as the clerk charges for the preparation of copies of other documents.

Not to be  
used for  
commercial  
solicitation

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the clerk under this Part for the purposes of commercial solicitation.

Section  
applicable to  
certain  
statements

(4) This section applies to a statement prepared by the clerk that is required to be submitted to the council of the municipality, the school board or local board under subsection 132 (5) or (9).

#### OFFENCES

Offence by  
corporation  
or trade  
union

**135.**—(1) A corporation or trade union that contravenes any of sections 122 to 134 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence

(2) An individual who contravenes any of sections 122 to 134, except subsection 124 (7), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.



(3) If the total campaign expenses incurred by a registered candidate or any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 129 for the office subject to election, the candidate, in addition to the fine set out in subsection (2), is liable to a fine equal to the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 129.

Additional  
penalty

**136.** No prosecution shall be instituted for a contravention of any of sections 122 to 134 more than one year after the facts upon which the prosecution is based first came to the knowledge of the informant.

One year  
limitation

**137.—(1)** No person shall obstruct a person making an investigation or examination under this Act or withhold or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

Obstructing  
investigation,  
etc.

(2) No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the clerk under section 132 or 133.

False  
statements

### PART III

**138.—(1)** In this Part,

Definitions

“broadcasting undertaking” means a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada);

R.S.C. 1970,  
c. B-11

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and contributions of goods and services to the registered candidate but not including,

- (a) auditor’s and accounting fees,
- (b) interest on loans authorized under section 162,
- (c) an expense incurred in holding a fund-raising function referred to in section 153,
- (d) an expense incurred for victory parties and appreciation notices published after polling day,

- (e) an expense relating to a recount in respect of the election,
- (f) an expense relating to an action commenced under section 106, and
- (g) other expenses not of partisan value that are set out in guidelines provided by the Commission;

▼  
 “campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
  - (i) an order to hold a new election is given in any judicial proceedings,
  - (ii) the council of the municipality passes a by-law to hold a new election,
  - (iii) the clerk receives from the secretary of a school board notice that a new election is required, or
  - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
 c. 302

and ending,

- (c) in the case of a regular election, on the 31st day of March in the year following the election year, or
- (d) in the case of a new election, 135 days after polling day; ▲

1986, c. 33

“Commission” means the Commission on Election Finances established by the *Election Finances Act, 1986*;

“contribution” means a contribution made to a representative of a registered candidate but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour,
- (b) any service voluntarily performed for a candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in

excess of what the individual would receive during the period the service was performed, and

- (c) any moneys, goods or services solicited by or donated to a registered candidate for purposes other than those set out in subsection 143 (3);



“municipality” means a city, town, village, police village, township, regional municipality or metropolitan municipality;

“news reporting done in good faith” means interviews, commentaries or other works prepared for and published by any newspaper, magazine or other periodical publication or broadcast on the facilities of any broadcasting undertaking without charge to any candidate registered under this Part;

“outdoor advertising facilities” means outdoor facilities provided by any person that is in the business of providing these facilities on a commercial basis for advertising purposes but does not include radio, television, newspaper, magazine or other periodical publications;

“registered candidate” means a candidate registered under section 143;

“trade union” has the same meaning as in Part II.


 (2) Where a corporation is associated with another corporation under section 256 of the *Income Tax Act* (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125 (6) (d) of the *Income Tax Act* (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this Part.
 

Associated corporations R.S.C. 1952, c. 148

APPLICATION

**139.**—(1) Notwithstanding Part II, the council of a municipality may pass a by-law to have this Part apply to elections for the office of member of council including the head of the council of the municipality.

Council may by by-law adopt this Part

(2) If a by-law is passed under subsection (1), this Part applies to the election of members of council.

Application of Part

(3) Where the council of a regional municipality or metropolitan municipality passes a by-law under subsection (1), the clerk of the regional or metropolitan municipality shall send a copy of the by-law to the Commission and to the clerk of any

By-laws to be sent to Commission and clerk

area municipality who is responsible for the conduct of any election to the council of the regional or metropolitan municipality.

By-laws to be sent to Commission

(4) Where the council of a municipality, other than a regional or metropolitan municipality, passes a by-law under subsection (1), the clerk of the municipality shall send a copy of the by-law to the Commission.

School board may adopt this Part

**140.**—(1) Notwithstanding Part II, where members of a school board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the school board may pass a resolution to have this Part apply to elections of members of the board.

Application of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of members of the board.

Resolution of school board to be sent to Commission and clerk

(3) Where a school board passes a resolution under subsection (1), the secretary of the board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

Local board may adopt this Part

**141.**—(1) Notwithstanding Part II, where members of a local board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the local board may pass a resolution to have this Part apply to elections of members of the board.

Application of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of the board.

Resolution of local board to be sent to Commission and clerk

(3) Where a local board passes a resolution under subsection (1), the secretary of the local board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

When by-laws or resolution to be passed or repealed

**142.** A by-law under section 139 or a resolution under section 140 or 141 shall be passed prior to the 1st day of January of an election year and, once passed, shall remain in force until repealed by a by-law of the council of the municipality or by a resolution of the school board or the local board, as the case may be, but no such repealing by-law or resolution shall be passed or take effect in an election year.

## REGISTRATION

**143.**—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the Commission an application for registration under this Part.

Application for registration as candidate

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the Commission no earlier than the day on which,

Application, new elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board notice that a new election is required; or
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980, c. 302

and not later than nomination day.

(3) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contributions to unregistered candidate

(4) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate who files an application for registration with the Commission setting out,

Register

- (a) that the person,
  - (i) has been duly nominated for election to office in accordance with this Act and whose nomination is certified by the clerk, or
  - (ii) has not been so nominated but proposes to become so;

- (b) the name of the office for which the candidate has been or proposes to be nominated;
- (c) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (d) the full name and address of the registered candidate;
- (e) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (f) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (g) the full name and addresses of all persons authorized by the registered candidate to accept contributions;
- (h) the name and address of every chartered bank, trust company or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions;
- (i) the full names and addresses of the persons responsible for making the deposits referred to in clause (h).

Effective date of registration

(5) A registered candidate who files an application under subsection (4) shall be deemed to be registered on the day of filing.

Idem

(6) An application under subsection (4) may be filed with the Commission by registered mail in which case it shall be deemed to be filed on the day it is mailed.

Where registered candidate withdraws, etc.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;

- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in clauses (4) (d) to (i) is altered, the candidate shall immediately notify the Commission in writing of the alteration, and, upon receipt of the notice, the Commission shall vary the register accordingly. Variation of register

**144.**—(1) After registering a candidate under subsection 143 (4), the Commission shall notify in writing the clerk of the municipality who is responsible for the conduct of the election and indicate to the clerk, Notification by Commission to clerk

- (a) the full name and address of the registered candidate; and
- (b) the name of the office for which the registered candidate has been, or will be nominated.

(2) The clerk shall maintain a list of all registered candidates and the office for which the registered candidate has been, or will be, nominated. Clerk to maintain list of candidates

(3) Where the full name and address of a registered candidate is varied by the Commission under subsection 143 (8), the Commission shall immediately notify the clerk in writing of the variation, and, upon receipt of the notice, the clerk shall vary the list of registered candidates accordingly. Notification of changes

#### CHIEF FINANCIAL OFFICERS

**145.**—(1) Every person who is applying for registration under this Part, before filing an application with the Commission, shall appoint a chief financial officer. Chief financial officer

(2) Where the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the Commission of the full name and address of the new chief financial officer. Replacement

Duties  
of chief  
financial  
officer

(3) The chief financial officer shall be responsible for ensuring that,

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in a depository on record with the Commission;
- (c) proper receipts are completed and dealt with in accordance with this Part;
- (d) the financial statements as required by section 169 together with the auditor's report on those statements, are filed with the Commission in accordance with this Part;
- (e) contributions consisting of goods or services are valued and recorded in accordance with this Part; and
- (f) proper direction is given to persons authorized to incur expenses.

#### CONTRIBUTIONS

Contributions

**146.**—(1) Contributions to registered candidates may be made by individuals, corporations and trade unions only during the campaign period.

How contri-  
butions of  
money to  
be made

(2) Money contributions to registered candidates in amounts in excess of \$25 shall be made only by,

- (a) a cheque having the name of the contributor legibly printed or typed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit  
of funds

(3) All moneys accepted by or on behalf of a registered candidate shall be paid into an account on record with the Commission.

Refund of  
contributions

**147.**—(1) If the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the chief financial officer shall, within thirty days after so learning and



upon obtaining the contributor's copy of the receipt issued under section 155 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

(2) Any contributions not returned to the contributor in accordance with subsection (1) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the Commission and become part of the general funds of the Commission to be used by the Commission in carrying out its responsibilities under this or any other Act.

Anonymous contributions

**148.**—(1) No individual, corporation or trade union shall make a contribution in money, goods and services to a registered candidate which in total exceeds \$750 in value during any campaign period.

Limitation on contributions

(2) Any moneys used for an election campaign by a registered candidate out of the candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this Part, but the limit on the total amount or value of contributions established under subsection (1) does not apply in respect of those funds.

Registered candidate's funds, spouse's funds

(3) Every registered candidate shall submit to the chief financial officer a statement in writing setting out all campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the candidate, together with all receipts and claims for those expenses, within six months after polling day.

Statement to be submitted

**149.**—(1) Subject to section 159, no individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to the individual, corporation or trade union.

Contributor to contribute only funds belonging to contributors

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the candidate, shall solicit or accept any contribution contrary to subsection (1).

Prohibition

**150.** No registered candidate shall accept funds from,

No funds from political parties, etc. 1973-74, c. 14 (Can.)

- (a) a federal political party registered under the *Canada Elections Act* or any federal constituency association

or candidate at a federal election endorsed by such federal political party;

- (b) a provincial political party, constituency association, candidate or leadership contestant registered under the *Election Finances Act, 1986*.

1986, c. 33

Determi-  
nation of  
value of  
goods and  
services

**151.**—(1) The value of goods and services provided as a contribution to a registered candidate is,

- (a) where the contributor is in the business of supplying these goods and services, the lowest amount charged by the contributor for an equivalent amount of similar goods and services at or about the time and in the same market area;
- (b) where the contributor is not in the business of supplying these goods or services, the lowest amount charged, at or about the time the goods or services are provided, by any other individual, corporation or trade union providing similar goods or services on a commercial retail basis in the same market area.

Where goods  
or services  
less than  
\$100

(2) Goods or services having a total value of \$100 or less may, at the option of the individual, corporation or trade union providing these goods or services, be considered not to be a contribution for the purposes of this Part.

Where goods  
or services  
provided at  
less than  
value

(3) Where goods or services are provided to a registered candidate for a price that is less than the value of the goods or services as determined under subsection (1), the amount that the price is less than that value shall, subject to subsection (2), be a contribution for the purpose of this Part.

Political  
advertisements

**152.**—(1) Where any individual, corporation or trade union with the knowledge and consent of a registered candidate promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcasting undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or through the use of any outdoor advertising facility and the amount of the cost of the advertisement,

- (a) in the case of any single advertisement, is more than \$100; and

- (b) in the case of any advertisements from a single service broadcast or published in any campaign period, in total exceeds \$100,

this amount shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

(2) Notwithstanding subsection (1), where political advertising is provided on the facilities of any broadcasting undertaking without charge to registered candidates in a particular municipality or school board or local board jurisdiction in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines issued thereunder, such political broadcasts shall not be considered a contribution or a campaign expense.

Idem

R.S.C. 1970,  
c. B-11

(3) No individual, corporation or trade union shall cause any political advertisement to be broadcast on the facilities of any broadcasting undertaking or published in any newspaper, magazine or other periodical publication or through the use of any outdoor advertising facility unless the broadcaster or publisher of the political advertisement is furnished with the identification, in writing, of the individual, corporation or trade union sponsoring the political advertisement.

Identity of  
sponsor of  
advertisement  
to be known

(4) A broadcaster who broadcasts or a publisher who publishes a political advertisement shall maintain records for a period of two years after the date of the broadcast or publication setting out the advertisement, the charge for it and any material relating to identification furnished to the broadcaster or publisher in connection with the advertisement and shall permit the public to inspect these records during normal office hours.

Records to  
be  
maintained of  
political  
advertisement

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the individual, corporation or trade union sponsoring the political advertising.

Name of  
sponsor to be  
included in  
political  
advertising

(6) In this section, "political advertisement" and "political advertising" mean any matter promoting or opposing the election of any registered candidate for which a fee is paid, but does not include any news reporting done in good faith.

Definition

**153.**—(1) In this section, "fund-raising function" means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held.

Definition

Restriction  
on fund  
raising

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period.

Income to be  
reported to  
Commission

(3) The gross income from any fund-raising function shall be recorded and reported to the Commission by the chief financial officer of the registered candidate who held the function or on whose behalf the function was held.

Sale of  
tickets, etc.

(4) Where a charge by the sale of tickets or otherwise is made for a fund-raising function, all or any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate by whom or on whose behalf the function was held, be considered not to be a contribution for the purposes of this Part.

Excess  
payments  
considered  
contributions

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of the highest amount charged, at or about the time the goods or services are provided, by any other person providing similar goods on a commercial basis in the same market area shall be considered a contribution.

Collections at  
meeting

**154.**—(1) Where, at a meeting held on behalf of a registered candidate, money is given in response to a general collection of money solicited, no amount shall be given anonymously by any person in excess of \$10.

Idem,  
reporting  
of amount

(2) The amounts given under subsection (1) shall be considered not to be contributions but the gross amount collected shall be recorded and reported to the Commission by the chief financial officer.

Receipts to  
be issued for  
contributions

**155.**—(1) Every registered candidate shall issue or cause to be issued receipts in the form prescribed by the Commission for every contribution accepted.

Form of  
receipt

(2) A receipt prescribed by the Commission under subsection (1) shall provide, on its face, for the acknowledgment of the contribution accepted by or on behalf of the registered candidate and, on its back, for an application to the clerk of the municipality who was responsible for conducting the election for a tax credit that the contributor is eligible to receive under this Part on account of the contribution.

Group contri-  
butions to be  
recorded as  
to source

**156.**—(1) Any contribution to a registered candidate made through any unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

(2) The amounts making up a contribution under subsection (1) that are attributable to any individual, corporation or trade union are contributions of that individual, corporation or trade union. Idem

**157.** No registered candidate and no individual, corporation or trade union on behalf of the candidate shall solicit or accept any contributions in excess of the limits imposed by this Part. Prohibition

**158.** No registered candidate shall directly or indirectly solicit or accept contributions from, Restriction on contributions

- (a) any individual normally resident outside Ontario;
- (b) any corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

**159.** Contributions of not more than 15 cents per month by any member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of this Part, but any amounts contributed to a registered candidate from these funds shall be considered to be a contribution from the trade union. Contributions by payroll deduction

**160.** No contribution shall be accepted by a registered candidate except through the chief financial officer or other person on record with the Commission as authorized to accept contributions. Contributions not to be accepted by candidate directly

**161.** Every registered candidate shall keep a record of all contributions in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contributions from a single source that in the aggregate exceed \$100, the name and address of the contributor. Record of contributions to be kept

#### BORROWING

**162.—(1)** A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the candidate and reported to the Commission. Borrowing

Limitation (2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1).

#### LOAN GUARANTEE

Guarantee of loans to registered candidates prohibited **163.**—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception (2) An individual, corporation or trade union that is eligible to make a contribution under this Part may guarantee any loan referred to in subsection 162 (1).

Guarantee as contribution (3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 162 (1) is considered to be a contribution under section 148.

#### CAMPAIGN ADVERTISING

Restriction on advertising **164.**—(1) No registered candidate and no individual, corporation or trade union acting with the candidate's knowledge and consent shall, except during the period of twenty-eight days immediately preceding the day before polling day,

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for the purposes of promoting or opposing the election of a registered candidate.

Idem (2) No individual or corporation shall, during the period prescribed in subsection (1), broadcast on the facilities of any broadcasting undertaking or publish in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities an advertisement promoting or opposing the election of a registered candidate on behalf of any registered candidate or any individual, corporation or trade union acting with the candidate's knowledge or consent.

Exemptions (3) Subsections (1) and (2) do not apply to,

- (a) advertising public meetings in the municipality or the jurisdiction of the school board or local board, as the case may be;
- (b) announcing the location of the campaign headquarters of a candidate;
- (c) advertising for volunteer campaign workers;
- (d) announcing services for electors by candidates respecting the revision of the preliminary list and additions to the polling list;
- (e) announcing services for electors on polling day; or
- (f) any other matter respecting administrative functions of a candidate's campaign headquarters,

if the advertisements, announcements and other matters are done in accordance with the guidelines of the Commission.

(4) Nothing contained in subsection (1) prohibits news reporting done in good faith during the period referred to in subsection (1) or the procuring for publication or the publishing of, Idem

- (a) an advertisement referred to in subsection (1) on the day immediately preceding polling day in a newspaper which is published in the municipality or in the jurisdiction of the school board or local board, as the case may be, not more frequently than once a week if the day of regular publication falls on the day immediately preceding polling day; or
- (b) an advertisement referred to in subsection (1) on the day immediately preceding polling day and on polling day through the use of any outdoor advertising facility.

(5) Nothing in subsection (1) prohibits the broadcasting on the facilities of a broadcasting undertaking of news reporting done in good faith in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines published thereunder during the period referred to in subsection (1). Idem,  
broadcasting  
R.S.C. 1970,  
c. B-11

(6) No individual or corporation shall,

- (a) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for broadcasting time on any broadcasting undertaking Limitations  
on charges  
for  
broadcasting,  
publishing

ing in the period beginning on the twenty-eighth day before the day immediately before polling day at an election and ending on the second day before polling day, that exceeds the lowest rate charged by the individual or corporation for an equal amount of equivalent time on the same facilities made available to any other person in that period; or

- (b) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for an advertisement in a periodical publication published or distributed and made public in the period referred to in clause (a) that exceeds the lowest rate charged by the individual or corporation for an equivalent amount of advertising space in the same issue of the periodical or in any issue published or distributed and made public in that period.

CAMPAIGN EXPENSES

Authorized expenses

**165.**—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the chief financial officer of the candidate by persons authorized by the chief financial officer.

Proof of authority

(2) Every person authorized to incur a campaign expense by a chief financial officer under subsection (1) shall, upon request, show a certificate, in the form prescribed by the Commission, signed by the chief financial officer as proof of the authority.

Limitation on campaign expenses, head of council

**166.**—(1) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation or trade union acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$5,500, plus \$0.50 per elector.

Idem, members of council, etc.

(2) Subject to subsection (3), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality where this office is required to be filled by the vote of the electors of an area municipality;



- (c) member of a school board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality; or
- (d) member of a local board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation or trade union acting on behalf of that candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$3,500, plus \$0.50 per elector.

(3) Where the municipality, school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of those wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Campaign expenses, ward system

(4) For the purposes of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Determination of number of electors

(5) After determining the number of electors under subsection (4), the clerk shall calculate, for each office, the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for an office under subsection (1) or (2), and certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or cause to be delivered personally or send or cause to be sent by registered mail a copy of the certificate to each registered candidate for the office and to the Commission.

Duties of clerk

(6) Certification of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office by the clerk under subsection (5) is conclusive evidence of the fact.

Clerk's certificate conclusive

167.—(1) Every individual who or corporation or trade union which has any claim for payment in relation to a campaign expense shall submit the claim to the chief financial officer of the registered candidate who incurred the expense,

Submission of payment claims

- (a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or
- (b) in the case of a new election, no later than 135 days after polling day. ▲

Payment of claims

(2) Every payment of a campaign expense shall be made by the chief financial officer of the registered candidate who incurred the campaign expense and, except where the campaign expense is less than \$25, the chief financial officer shall set out the particulars of payment.

Disputed claims

(3) Where the chief financial officer of a registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

#### AUDITORS

Appointment of auditor

R.S.O. 1980, c. 405

**168.**—(1) Every candidate, at the time of appointing a chief financial officer, shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Change of auditors

R.S.O. 1980, c. 405

(2) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (3), the candidate shall immediately appoint another auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Persons not eligible to be auditors

(3) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate.

Report of auditor

(4) The auditor shall make a report to the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 169, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards.

Idem

(5) If,

- (a) the auditor has not received from the chief financial officer all the information and explanation that is required; or
- (b) proper accounting records have not been kept by the chief financial officer so far as appears from the auditor's examination,

the auditor shall make a statement to that effect in the report made under subsection (4).

(6) An auditor shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate. Right of access

(7) The chief financial officer of the candidate shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (4). Co-operation required

#### FINANCIAL STATEMENTS

**169.**—(1) The chief financial officer of every registered candidate shall file with the Commission, Filing of financial statements with Commission

- (a) a financial statement setting out,
  - (i) all income received and expenses incurred in the campaign period,
  - (ii) all campaign expenses, paid and outstanding, incurred in a campaign period and a statement of all disputed claims, and
  - (iii) all information required to be recorded under section 161 that relates to the campaign period; and
- (b) the auditor's report on the financial statement.

(2) The financial statement and auditor's report under subsection (1) shall be filed, Idem

- (a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or
- (b) in the case of a new election, no later than 225 days after polling day. ▲

Filing of  
financial  
statements  
with clerk of  
municipality

(3) The chief financial officer shall, at the time of filing with the Commission, file a copy of the financial statement and the auditor's report referred to under subsection (1) with the clerk of the municipality who was responsible for the conduct of the election for which the registered candidate was registered.

Commission  
to prepare  
statement

(4) After the time for the filing of a financial statement and auditor's report has expired, the Commission shall immediately prepare a statement disclosing,

- (a) the information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement or report under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand to  
candidate to  
file

(5) After the time for the filing of the financial statement and auditor's report has expired, the Commission shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement and report, a notice in the form prescribed by the Commission demanding that the registered candidate file a financial statement and auditor's report within thirty days from the date of the notice.

Contents of  
demand  
notice

(6) The notice under subsection (5) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not, is ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the financial statement and auditor's report within thirty days of the date of the notice.

Publication  
of notice

(7) The Commission shall publish the notice under subsection (5) in a newspaper having general circulation in the municipality.

Commission  
to prepare  
supple-  
mentary  
statement

(8) After the thirty day period for the filing of a statement and report has expired, the Commission shall immediately prepare a supplementary statement disclosing,

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a financial statement and auditor's

report within the thirty day period allowed under subsection (5),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

#### SURPLUS

**170.**—(1) Where the financial statement of a registered candidate filed under section 169 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election. Surplus funds

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the clerk has been notified by the Commission under section 143 that the candidate has become registered under this Part for that election. Release of funds, regular elections

(3) Where the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk, upon being so notified by the Commission, shall release the surplus to the candidate for use in whole or in part in that new election. Idem, new elections

(4) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust under subsection (1) where the office for which the candidate has been, or will be, nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced. Restriction

(5) Where the candidate for whose benefit the surplus is held in trust under subsection (1), Disposal of surplus

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered,

in the next regular election, the surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Idem

(6) Upon the repeal of any by-law passed under section 139 or any resolution passed under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Ineligibility  
respecting  
future  
elections

**171.**—(1) If a registered candidate,

- (a) fails to file a financial statement and auditor's report within thirty days of the date of the notice sent under subsection 169 (5);
- (b) files a financial statement and auditor's report that is either incorrect or does not comply with section 169 and fails to file a correction statement and report within thirty days from the date that the Commission files the statement under subsection 169 (5); or
- (c) incurs campaign expenses in excess of the amount permitted under section 166,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

Forfeiture  
of office

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility  
respecting  
future  
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

**172.**—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless before that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility  
where surplus  
not paid to  
clerk

(2) Where,

Office  
declared  
vacant

- (a) a registered candidate is declared elected;
- (b) the financial statement of the candidate shows a surplus; and
- (c) the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170,

the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, to which the candidate was elected and the office to which the candidate was elected shall be immediately declared vacant and, in addition, the candidate is liable to any other penalty that may be imposed under this Act.

(3) Where the office to which a registered candidate was declared elected is subsequently declared vacant under subsection (2), the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless prior to that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility  
respecting  
future  
elections

#### TAX CREDIT

**173.**—(1) Every individual who and every corporation or trade union which made a contribution to a candidate registered under this Part during the campaign period of an election may within one year of polling day apply, in the form prescribed by the Commission, to the clerk of the municipality who was responsible for conducting the election to receive a tax credit.

Tax credit

(2) The tax credit which a contributor is eligible to receive under subsection (1) is an amount equal to,

Amount of  
tax credit

- (a) 75 per cent of the total amount contributed by the contributor to all candidates if the amount contributed does not exceed \$100;
- (b) \$75 plus 50 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$100 and does not exceed \$400; or
- (c) the lesser of,
  - (i) \$225 plus 33 1/3 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$400 if the total amount contributed exceeds \$400, and
  - (ii) \$350,

if payment of each amount that is included in the total amount contributed by the contributor to all registered candidates is proven by receipts in the form prescribed by the Commission that are signed by a recorded agent of the candidate.

Reduction of  
tax credits

- (3) A tax credit under subsection (2),
  - (a) shall first be applied by the clerk to reduce any arrears in taxes or other debts then owing to the municipality by the contributor; and
  - (b) may be applied to offset current taxes, at the request of the contributor.

Payment of  
rebates

- (4) Where the contributor does not owe any taxes or other debts to the municipality or does not make the request under clause (3) (b), the clerk shall pay to the contributor an amount equal to the amount of the tax credit which the contributor is eligible to receive under subsection (2).

Recovery of  
tax credit

- (5) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional or metropolitan municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional or metropolitan municipality by billing the regional or metropolitan municipality for that amount.

Recovery of  
tax credit  
from school  
board

- (6) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a reg-



istered candidate in a school board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the school board by billing the school board for that amount.

(7) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in a local board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the local board by billing the local board for that amount.

Recovery of  
tax credit  
from local  
board

(8) No tax credit shall be provided to a contributor under subsection (3) or (4) until the Commission has notified the clerk in writing that all of the financial statements and auditor's reports filed with it by the chief financial officers of the registered candidates in the election as required by section 169 have been examined.

Condition for  
giving tax  
credits

(9) Tax credits shall be issued to contributors only during the one-year period following receipt of the notice given by the Commission under subsection (8).

Time  
restriction

(10) No tax credit shall be provided to a contributor under subsection (3) or (4) for a contribution to a registered candidate where the chief financial officer of the candidate has failed to file the financial statement and auditor's report required by section 169 or where the financial statement and auditor's report of the candidate have been found by the Commission to be unsatisfactory.

Refusal of  
tax credit

(11) In this section, "tax credit" includes a rebate of contributions.

Interpretation

#### ACCESS TO DOCUMENTS

**174.**—(1) Documents filed with the Commission or the clerk of a municipality under this Part are public records and may be inspected by any person upon request at the office of the Commission or of the clerk during normal office hours.

Inspection of  
documents

(2) Any person may make extracts from the documents referred to in subsection (1) and is entitled to copies of the documents upon payment for the preparation of the copies at such rate as the Commission may determine or at such rate as the clerk charges for the preparation of copies of other documents.

Extracts and  
copies

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the

Not to be  
used for  
commercial  
solicitation

Commission or the clerk under this Part for the purpose of commercial solicitation.

#### FORMS

Form

**175.** All applications, returns, statements and other documents to be filed with the Commission shall be filed in the form prescribed by the Commission.

#### POWERS AND DUTIES OF COMMISSION

Powers and duties of Commission  
1986, c. 33

**176.** Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission in the administration of this Part.

#### OFFENCES

Offence,  
chief  
financial  
officer

**177.**—(1) The chief financial officer of a registered candidate who contravenes section 169 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Idem,  
candidate

(2) Where any contravention of this Part that is an offence by virtue of subsection (1) is committed by a chief financial officer of a registered candidate, the candidate for which the chief financial officer acts is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence,  
candidate

**178.** Where the total campaign expenses incurred by a registered candidate and any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 166 for the office subject to election, the registered candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 166.

Offence,  
candidate

**179.** Where the financial statement of a registered candidate shows a surplus and the surplus is not paid over to the clerk as required by section 170, the candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount of the surplus.

Offence,  
corporations,  
trade union

**180.** Every corporation or trade union that contravenes any of sections 143 to 174 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

**181.** Every individual who contravenes any of sections 143 to 174, except subsection 148 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. Offence,  
individuals

**182.** No person shall obstruct a person making an investigation or examination under this Part or withhold, conceal or destroy or alter any books, papers, documents or things relevant to the subject-matter of the investigation or examination. Obstruction  
prohibited

**183.** No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the Commission under this Part. Prohibition,  
false  
statements

**184.** No person shall knowingly give false information to a chief financial officer or other person authorized to accept contributions. Prohibition,  
false  
information

**185.—(1)** A prosecution for an offence under this Part may be instituted against a trade union in the name of the trade union and, for the purposes of any prosecution, the trade union shall be deemed to be a person. Prosecution  
of trade  
unions

(2) Any act or thing done or omitted by an officer or agent of a trade union within the scope of the officer's or agent's authority on behalf of the trade union shall be deemed to be an act or thing done or omitted by the trade union. Trade union  
liable for acts  
of agents

**186.** No prosecution shall be instituted under this Part without the consent of the Commission and no prosecution shall be instituted more than one year after the facts upon which the prosecution is based first came to the knowledge of the Commission. Consent of  
Commission

**13.** Section 37 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by inserting after "qualified" in the first line "to be elected or".

**14.** Section 38 of the said Act is amended by adding thereto the following subsection:

(1a) A member of council who ceases to hold the qualifications required under clause 37 (a) is disqualified from holding the office of member of council. Member to  
maintain  
eligibility

**15.—(1)** For the purpose of the 1988 regular elections, the campaign period commences on the day this Act comes into force. Transition

(2) For the purpose of the 1988 regular elections, a municipality, school board or local board may pass a by-law or reso- Idem

lution to have Part III apply to the election if the by-law or resolution is passed within sixty days after the coming into force of this Act.

Commence-  
ment

▼ **16.**—(1) This Act, except section 3, comes into force on the day it receives Royal Assent.

Idem

(2) Section 3 comes into force on the 1st day of January, 1991. ▲

Short title

**17.** The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1988*.

# Bill 106

*(Chapter 33  
Statutes of Ontario, 1988)*

## **An Act to amend the Municipal Elections Act and the Municipal Act**

**The Hon. J. Eakins**  
*Minister of Municipal Affairs*

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<i>1st Reading</i>	April 5th, 1988
<i>2nd Reading</i>	May 4th, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988



**Bill 106**

**1988**

**An Act to amend the  
Municipal Elections Act and the Municipal Act**

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

**1.** The *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

**14a.** No corporation is eligible to vote in any election.

Corporation  
not eligible  
to vote

**2.** Subsection 25 (6) of the said Act is repealed and the following substituted therefor:

(6) Every registered candidate, as defined in section 121 or section 138, is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election.

Registered  
candidate  
entitled to  
copies

**3.** Subsection 46 (1) of the said Act is amended by inserting after "electors" in the fourth line "allows easy access to persons who have a physical disability or a mobility impairment".

**4.** Section 52 of the said Act is amended by striking out "11" in the second line and inserting in lieu thereof "10".

**5.—(1)** Subsection 66 (1) of the said Act is amended by inserting after "day" in the third line "and on the Thursday immediately before polling day".

(2) Subsection 66 (3) of the said Act is amended by striking out "9" in the first line and inserting in lieu thereof "10".

(3) Subsection 66 (4) of the said Act is amended by inserting after "necessary" in the second line "shall select locations that allow easy access to persons who have a physical disability or a mobility impairment".

**6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted therefor:**

Who may  
vote by  
proxy

(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 may vote by proxy in the polling subdivision.

**7. Section 82 of the said Act is repealed.**

**8. Section 83 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 14, is repealed and the following substituted therefor:**

#### RECOUNTS

Recount  
officer

**83.—(1)** The clerk of every municipality, at the same time as the clerk appoints officials under section 4, may appoint a person as recount officer.

Disqualifi-  
cation

(2) No person who is a candidate or who is less than eighteen years of age shall be appointed a recount officer.

Oath

(3) A recount officer shall, before performing any duties, take the oath in the prescribed form.

**9. Sections 84, 85, 86, 87 and 88 of the said Act are repealed and the following substituted therefor:**

Clerk as  
recount  
officer

**84.—(1)** If a recount officer is not appointed under subsection 83 (1), subject to subsections (2) to (5), the clerk of a municipality is the recount officer for elections within the municipality or any part of it.

Recount  
officer,  
regional  
chairman

(2) The clerk of the area municipality with the greatest number of electors is the recount officer for the election of the chairman of a regional municipality.

Recount  
officer, police  
village

(3) The clerk of the municipality in which a police village is located is the recount officer for the election of the trustees of the police village.

Idem

(4) If the police village is located in two or more municipalities, the clerk of the municipality having the largest number of electors in the police village is the recount officer for the election of the trustees.

Recount  
officer,  
school  
trustees  
R.S.O. 1980,  
c. 129

(5) The returning officers of municipalities that hold elections for school trustees under the *Education Act* are recount officers for the election of the school trustees.



(6) Where the recount officer of a municipality has participated in the actual counting of the ballots for a polling subdivision in an election or, for any reason, is unable to conduct a recount arising as a result of the election, the recount officer shall immediately appoint a person to act as the recount officer for that election who is not disqualified under subsection 83 (2). Recount officer replacement

(7) A person need not be appointed under subsection (6) if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the recount officer participated in the actual counting of the ballots. Exception

**85.—**(1) The recount officer is responsible for the proper preparation for and conduct of a recount in the election and, for this purpose, shall direct the training of persons appointed under this section and supervise their work. Duty of recount officer

(2) The recount officer may appoint assistant recount officers and may provide for such clerical and other assistance as is necessary to conduct a recount. Assistants

(3) No person shall be appointed under this section who, Disqualification

(a) is a candidate;

(b) is less than eighteen years of age; or

(c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(4) Clause (3) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be appointed an assistant recount officer participated in the actual counting of the ballots. Exception

(5) The recount officer may in writing delegate to the assistant recount officers such rights and duties in relation to the preparation for and conduct of a recount as the recount officer considers necessary, but such delegation does not preclude the continued exercise of those rights and performance of those duties by the recount officer. Delegation by recount officer

(6) The recount officer may appoint persons to aid in maintaining peace and order at the recount. Other appointments

(7) Every recount officer, assistant recount officer, scrutineer and any other person authorized to attend and serve at a Oath

recount shall, before performing any duties, take the oath in the prescribed form.

Who may administer oaths

(8) The recount officer may administer any oath required in relation to a recount, and assistant recount officers may administer any such oath except an oath to be taken by the recount officer.

Remuneration and expenses

(9) The municipality shall pay to persons appointed under this section reasonable remuneration and the expenses incurred in attending the recount, but if the recount has been held at the request of a school board or a local board or at the request of a candidate for election to a school board or local board, the school board or local board, as the case may be, shall pay the remuneration and expenses.

Certification of expenses

(10) The expenses under subsection (9) shall be paid out only upon presentation of a certificate signed by the clerk of the municipality verifying the amount payable.

Tie votes, recount

**86.**—(1) If,

- (a) two or more candidates nominated for the same office have an equal number of votes and both or all of the candidates cannot be declared elected to the office; or
- (b) the votes for the affirmative and negative on a by-law or question are equal,

the recount officer shall, after the tied vote has been publicly announced, immediately appoint a time and place to hold a recount of the votes cast for those candidates or on the by-law or question.

When recount to be held

(2) The time appointed by the recount officer for a recount under subsection (1) shall be no later than seven days after the declaration of the results of the election under subsection 79 (2) or 79 (3).

Where vote is close

**86a.**—(1) If the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes, is less than one half of one vote for each polling subdivision in the election for that office, or less than ten votes, whichever is greater, the results shall be included in the statement required under subsection 79 (2) or 79 (3).

(2) If subsection (1) applies and if a candidate who was not declared elected so requests in writing, the recount officer shall hold a recount. Recount on request

(3) A request for a recount under subsection (2) shall be made to the recount officer not later than seven days after the declaration of the results of the election under subsection 79 (2) or 79 (3). When request for recount to be made

(4) Upon receiving a request for a recount under this section, the recount officer shall appoint a time and place for the recount. Time and place for recount

(5) The time appointed by the recount officer for a recount under subsection (4) shall be no earlier than ten days and no later than twenty days after the request for the recount is received. When recount to be held

**86b.**—(1) Following an election for the members of the council of a municipality, regional municipality or metropolitan municipality or of a school board or of a local board, where a recount of the votes for the office or for the affirmative or negative on any by-law or question is considered to be in the public interest, the council, school board or local board, as the case may be, may pass a resolution requiring the recount officer to hold a recount. Recount resolution

(2) A resolution for a recount under subsection (1) shall be passed no later than thirty days after the declaration of the results of the election under subsection 79 (2) or 79 (3). When resolution to be passed

(3) If a resolution for a recount is passed under subsection (1) within the time period set out in subsection (2), the recount officer shall appoint a time and place for the recount. Time and place for recount

(4) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days after the passing of the resolution under subsection (1). When recount to be held

**87.**—(1) If, in any election, an elector has reasonable grounds for believing that, Application for recount by elector

- (a) the votes have been improperly counted or any ballot has been improperly rejected;
- (b) an incorrect statement of the number of votes for any candidate or for or against any by-law or question has been made; or
- (c) the votes have been improperly added up,

the elector may apply to a judge of the District Court of the county or district in which the municipality or part thereof or the administrative or head office of the school board or local board is situate for a determination whether a recount should be held.

Affidavit and  
deposit to  
accompany  
application

(2) An application for a recount under subsection (1) shall be commenced no later than thirty days after the declaration of the results of the election under subsection 79 (2) or 79 (3) and shall be accompanied by,

- (a) an affidavit or affidavits setting out the grounds for the recount and the facts in support of those grounds; and
- (b) a deposit in the sum of \$100 as security for the costs in connection with the application.

Contents of  
affidavit

(3) An affidavit under clause (2) (a) shall be confined to facts within the personal knowledge of the person making the affidavit or to other evidence that this person could give if testifying as a witness in court.

Form of  
deposit

(4) A deposit under clause (2) (b) shall be in the form of cash or in the form of a money order or certified cheque made payable to the local registrar of the District Court, or in any combination thereof.

Parties to  
be served

(5) Copies of the notice of application, the application for a recount and affidavits in support of the application shall be served by the applicant,

- (a) where the application concerns an election to office, upon each candidate for that office; and
- (b) upon the recount officer.

Disposition  
of  
application,  
etc.

(6) The judge, if satisfied that there are sufficient grounds for a recount, shall order that a recount be held by the recount officer and may determine which ballot boxes, if any, shall be opened for the purpose of the recount.

Where  
recount  
ordered

(7) If the judge has ordered a recount, the judge shall immediately notify the recount officer in writing and the recount officer shall appoint a time and place to hold the recount.

When  
recount to  
be held

(8) The time appointed by the recount officer for a recount shall be no earlier than ten days and no later than twenty days

following the date the recount officer receives the notice from the judge.

(9) The costs with respect to a recount conducted under this section are in the discretion of the judge ordering the recount who may order by whom, to whom and in what manner the costs shall be paid. Costs

**88.—(1)** The recount officer shall give at least six days notice in writing of the time and place of the recount to, Notice of recount

- (a) the candidate who requested the recount, the council or school board or local board which passed the resolution for the recount, or the elector who applied to the judge for the recount, as the case may be;
- (b) the candidates for the office which is the subject of the recount;
- (c) if the recount officer is not the returning officer of the municipality, the returning officer of the municipality; and
- (d) if the recount concerns the election of chairman of a regional municipality, the trustees of a police village or the members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality.

(2) The recount officer shall attend the recount and bring the ballot boxes and all documents relating to the election. Attendance of recount officer

(3) If the recount officer is not the returning officer of the municipality, the returning officer of the municipality, or a person appointed by the returning officer, shall attend the recount and bring the ballot boxes and all documents relating to the election. Where recount officer not returning officer

(4) If the recount concerns the election of chairman of a regional municipality or of trustees of a police village or of members of a school board, the clerk of any other municipality who was the returning officer for the vote to be recorded in that clerk's municipality, or a person appointed by the clerk, shall attend the recount and bring the ballot boxes and all documents relating to the election. Regional chairman, police village and school board elections

(5) Each candidate for an office to which the recount relates and the elector, if any, who applied for the recount are entitled to be present and to be represented by counsel and to Who may be present

have present a scrutineer appointed for that purpose, and, where the recount relates to a by-law or question, such persons as the council may appoint as scrutineers are entitled to be present, but no other person, except with the permission of the recount officer, is entitled to be present at the recount.

Application  
of certain  
provisions

(6) Subsections 4 (8) and (10) and sections 6 and 7 apply with necessary modifications to scrutineers appointed under subsection (5).

What ballots  
involved in  
recounts

**88a.**—(1) If a recount relates to the election of a candidate, the recount shall be of the votes cast,

- (a) where subsection 86 (1) applies, for the two or more candidates who have an equal number of votes;
- (b) where subsection 86a (1) applies, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected and for the defeated candidate or candidates who received enough votes for the same office to fall within the margin of votes prescribed by that subsection; and
- (c) in all other cases, for the candidate declared elected when only one is to be elected or, in the case of an office to which more than one is to be elected, for the candidate who received the lowest number of votes of those declared elected by the returning officer and for the defeated candidate who received the highest number of votes for the same office.

Recount of  
votes cast  
for other  
candidates

(2) Notwithstanding subsection (1), the recount officer may conduct a recount of the votes cast for any other candidate whose election or right to any other office may be affected by the recount conducted under subsection (1).

Procedure at  
recount

**88b.**—(1) At the time and place appointed for the recount, and in the presence of those persons who are entitled to be present and who have attended, the recount officer shall add the votes from the statements returned to the returning officer by the deputy returning officers, or shall count the ballots received by the returning officer from the deputy returning officers and the number of votes counted at the election, or both, as the recount officer considers appropriate, and for this purpose shall open the sealed envelopes containing,

- (a) the ballots that were not objected to and were counted;
- (b) the ballots that were objected to but were counted;
- (c) the rejected ballots;
- (d) the cancelled ballots;
- (e) the ballots that were used but were unmarked;
- (f) the declined ballots; and
- (g) the unused ballots.

(2) Subject to sections 88c and 88d, the recount officer, in conducting the recount, shall determine the validity of ballots, and shall verify or correct the statement of the vote for each polling subdivision. Verification of statement of the vote

**88c.**—(1) A candidate, a representative of the candidate or a scrutineer who objects to the validity of a ballot or to the counting of votes in any ballot may request that the recount officer make an application to a judge of the District Court for an order determining the validity of the ballot. Application to judge

(2) If the recount officer fails to make an application within five days of a request being made under subsection (1), the party making the request may apply directly to a judge of the District Court. Direct application

(3) No hearing under subsection (1) shall be held until the recount officer has complied with subsection 88b (2). When hearing to be held

(4) If an application is made under subsection (1), the recount officer shall, Procedure where application made

- (a) write the number of the polling subdivision on the back of and initial any disputed ballots that are the subject of the application and seal them in a separate envelope clearly marked so as to indicate its contents;
- (b) give at least six days notice in writing of the time and place of the hearing of the application to the parties to the recount; and
- (c) make suitable arrangements for the safekeeping of any ballots that are not the subject of the appli-

cation and any documents relating to the election that are not relevant to the application.

Attendance of recount officer at hearing

(5) The recount officer shall attend the hearing of the application and bring the envelope containing the disputed ballots that are the subject of the application and any documents relating to the election that are relevant to the application.

Procedure at hearing

(6) The judge, in the presence of the persons entitled to be present at the recount and who have attended the hearing, shall determine the validity of the ballot or to the counting of votes in any ballot and for this purpose shall open the sealed envelope containing the disputed ballots.

Distinguishing disputed ballots

(7) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, notwithstanding any order to the contrary made by the judge under this section, is disputed by the party and seal the disputed ballots in a separate envelope clearly marked so as to indicate its contents.

Procedure on completion of hearing

(8) Upon completion of the hearing, the judge shall make an order determining the validity of the ballot and shall,

- (a) advise the persons present of the order;
- (b) except as provided by subsection (7), seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b), along with any documents relating to the election that were examined during the course of the hearing, to the custody of the recount officer.

Judge to give order to recount officer

(9) The judge shall give a certified copy of the order to the recount officer unless, within five days following the hearing, the judge receives a notice of appeal under section 88j.

Recount officer to complete recount

(10) Upon receipt of the judge's order, the recount officer shall complete the recount.

Costs of application

(11) Subject to subsection (12), the costs of the application shall be borne by the municipality, school board or local board to which the recount relates.

Idem

(12) If the judge finds that any objection is frivolous or vexatious, the judge may order that the costs of the application be paid by the person who made the objection.



(13) Upon the expiry of the time for appeal from a decision of the judge, if no appeal has been taken, the judge shall return the envelope described in subsection (7) to the custody of the recount officer.

Where no appeal, envelope to be returned

**88d.** Notwithstanding section 88c, if a party to the recount requests the recount officer to do so, the recount officer shall write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

Distin-  
guishing  
disputed  
ballots

**88e.**—(1) Upon completion of the recount, the recount officer shall,

Procedure on  
completion  
of recount

- (a) announce the result to the persons present at the recount; and
- (b) except as provided in section 88d, seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents.

(2) The recount officer shall certify in writing the result of the recount, unless, within five days following the completion of the recount, the recount officer receives a notice of appeal under section 88j.

Certification  
by recount  
officer

(3) Following certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

Declaration  
of result by  
returning  
officer after  
recount, etc.

**88f.**—(1) In the case of a tied vote for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount, the successful candidate shall be determined by lot conducted by the recount officer.

Tied votes

(2) The lot shall be conducted by placing the names of the candidates on equal size pieces of paper in a box, and the name drawn by the recount officer shall be the successful candidate.

Method of  
conducting  
lot

**88g.** The costs of the recount, unless otherwise ordered by a judge, shall be borne by the municipality, school board or local board to which the recount relates.

Costs of  
recount

**88h.**—(1) Upon the expiry of the time for appeal from a decision of the recount officer, if no appeal has been taken,

If no appeal,  
envelopes to  
be returned

the recount officer shall return the envelopes described in section 88d and clause 88e (1) (b) to the custody of the appropriate clerk or returning officer.

Documents  
not required  
on appeal

(2) If an appeal is taken from the decision of the recount officer on the recount, the recount officer shall return the envelopes of ballots and the original statements of the vote described in clause 88e (1) (b) that are not required for the appeal to the custody of the appropriate clerk or returning officer.

Right to sit  
pending  
recount

**88i.**—(1) A candidate declared elected is entitled to sit on the council, school board or local board notwithstanding that a request or application for a recount has been filed or a resolution for a recount has been passed, but where the recount determines that some other person was elected, that other person is, notwithstanding that an appeal is pending, entitled to sit and vote until the appeal is disposed of.

Decisions  
not affected

(2) A decision of a council, school board or local board reached with the participation of a member who is subsequently declared not to be entitled to sit on the council, school board or local board is not affected by that participation.

#### APPEAL FROM DECISION OF JUDGE OR RECOUNT OFFICER

Appeal from  
decision of  
judge or  
recount  
officer

**88j.**—(1) Any party may appeal to the Divisional Court from the decision of the judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service  
of notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that the judge of the Divisional Court may direct.

Documents  
to be  
forwarded

(3) The judge or recount officer shall forward to the Registrar of the Supreme Court by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the

subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and

- (d) if the appeal is not limited, all of the ballots, in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

(4) The judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (9) or 88e (2). Certificate to be issued after appeal

(5) The judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the Registrar. Copy of certificate

(6) On receipt of the ballots, notice and statement, the Registrar shall immediately obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(7) One judge of the Divisional Court shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the judge of the District Court or to the recount officer. Determination by Divisional Court

(8) The judge or recount officer, in compliance with the decision of the Divisional Court, shall certify the result without delay. Certificate to reflect decision

**10. Subsection 103 (2) of the said Act is repealed.**

**11. Section 121 of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 25 and amended by 1985, chapter 4, section 10, is repealed.**

**12. The said Act is further amended by adding thereto the following Parts:**

## PART II

**121.—(1) In this Part,**

Definitions

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and con-

tributions of goods and services to the registered candidate, but does not include,

- (a) audit and accounting fees,
- (b) interest on loans under section 127,
- (c) an expense incurred in holding a fund-raising function referred to in section 126,
- (d) an expense incurred for victory parties held and appreciation notices published after polling day,
- (e) an expense relating to a recount in respect of the election, and
- (f) an expense relating to an action commenced under section 106;

“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
  - (i) an order to hold a new election is given in any judicial proceedings,
  - (ii) the council of the municipality passes a by-law to hold a new election,
  - (iii) the clerk receives from the secretary of a school board notice that a new election is required, or
  - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
c. 302

and ending,

- (c) in the case of a regular election, on the 31st day of March in the year following the election year, or
- (d) in the case of a new election, 135 days after polling day;

“contribution” means a contribution made to a registered candidate or representative of a registered candidate for pur-

poses of the election of the registered candidate at the next election, but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour, and
- (b) any service voluntarily performed for a registered candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

“municipality” means a city, town, village, police village, township, regional municipality or metropolitan municipality;

“registered candidate” means a candidate registered under section 122;

“trade union” means a trade union as defined in the *Labour Relations Act* or the *Canada Labour Code* that holds bargaining rights for employees in Ontario to whom those Acts apply and includes any central, regional or district labour council in Ontario.

R.S.O. 1980,  
c. 227  
R.S.C. 1970,  
c. L-1

(2) Where a corporation is associated with another corporation under section 256 of the *Income Tax Act (Canada)* and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125 (6) (d) of the *Income Tax Act (Canada)*, the two associated corporations shall be considered as a single corporation for the purposes of this Part.

Associated  
corporations  
R.S.C. 1952,  
c. 148

## REGISTRATION

**122.**—(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form.

Registration  
of candidate

(2) In the case of a new election, the notice of registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

Registration  
in new  
elections

- (a) an order to hold a new election is given in any judicial proceedings;

- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of the school board notice that a new election is required; or
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
c. 302

and no later than nomination day.

When  
candidate  
registered

(3) A person who files a notice of registration under subsection (1) becomes a registered candidate on the day of filing.

No contri-  
butions to  
unregistered  
candidate

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

Register

(5) The clerk shall keep a register of every person who has filed a notice of registration under subsection (1) setting out,

- (a) the date that the registered candidate is duly nominated under section 36;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every chartered bank, trust company or other financial institution in Ontario

that is used by or on behalf of the registered candidate for the deposit of any contributions;

- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g); and
- (i) the date of registration.

(6) A notice of registration under subsection (1) may be filed with the clerk by registered mail in which case it shall be deemed to be filed on the day it is mailed. Effective date of registration

(7) The campaign period with respect to a registered candidate shall be deemed to expire, Where registered candidate withdraws, etc.

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;
- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,

and the registered candidate or the chief financial officer shall file with the clerk the statement referred to in section 132.

(8) If the information referred to in subsection (5) is altered, the registered candidate shall immediately notify the clerk in writing of the alteration and, upon receipt of the notice, the clerk shall vary the register accordingly. Variation of register

CHIEF FINANCIAL OFFICERS

**123.**—(1) Every person who proposes to be a candidate may appoint a chief financial officer before or after filing the notice of registration with the clerk. Chief financial officer

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the clerk of the full name and address of the new chief financial officer. Replacement

(3) The chief financial officer shall be responsible for ensuring that, Duties of chief financial officer

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in the appropriate accounts;
- (c) proper receipts are completed;
- (d) the financial statements required under section 132 and the auditor's report on the statements are filed with the clerk;
- (e) contributions consisting of goods or services are valued and recorded; and
- (f) proper direction is given to persons authorized to incur expenses.

Where  
no chief  
financial  
officer

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is responsible for the duties set out in subsection (3).

#### CONTRIBUTIONS

Contributions

**124.**—(1) Contributions to registered candidates may be made only by individuals, corporations and trade unions and may be made only during the campaign period.

Contributions  
to be made  
in campaign  
period

(2) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept contributions at any time other than during the campaign period.

How contri-  
butions of  
money to be  
made

(3) Money contributions to registered candidates in amounts in excess of \$25 shall only be made by,

- (a) a cheque having the name of the contributor legibly printed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit of  
funds

(4) All moneys accepted by or on behalf of a registered candidate shall be paid into an account registered with the clerk under subsection 122 (5).



(5) If the registered candidate or the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the registered candidate or the chief financial officer shall, within thirty days after so learning and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

Refund of contributions

(6) Any contributions not returned to the contributor under subsection (5) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the clerk and become part of the general funds of the municipality.

Anonymous contributions payable to municipality

(7) No individual, corporation or trade union shall make a contribution in money, goods and services to any registered candidate which in total exceeds \$750 in value during any campaign period.

Limitation on contributions

(8) Any moneys used for an election campaign by a registered candidate out of the registered candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this section, but the limit on the total amount of contributions established under subsection (7) does not apply in respect of those funds.

Registered candidate's funds, spouses's funds

(9) Every registered candidate shall submit to the clerk at the same time as the financial statement is filed under section 132, a statement in writing setting out campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the registered candidate, together with all receipts and claims for those expenses.

Statement to be submitted to clerk

**125.**—(1) No individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to that individual, corporation or trade union.

Contributor to contribute only funds belonging to contributor

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the registered candidate shall solicit or accept any contribution contrary to subsection (1).

Prohibition

(4) No registered candidate shall accept funds from,

No funds from political parties, etc.

1973-74,  
c. 14 (Can.)

(a) a federal political party registered under the *Canada Elections Act* or any federal constituency association or registered candidate at a federal election endorsed by such federal political party; or

1986, c. 33

(b) a provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act, 1986*.

Receipts

(5) A registered candidate shall issue receipts for every contribution accepted.

Group contri-  
butions

(6) A contribution to a registered candidate made through an unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

Application  
to amounts  
making up  
contribution

(7) The amounts making up a contribution under subsection (6) that are attributable to an individual, corporation or trade union are contributions of that individual, corporation or trade union for the purposes of subsection 124 (7).

Receipt of  
excess contri-  
butions  
prohibited

(8) No registered candidate and no individual, corporation or trade union acting on behalf of the registered candidate shall solicit or accept any contributions in excess of the limits imposed under subsection 124 (7).

Restriction  
on contri-  
butions

(9) No registered candidate shall directly or indirectly solicit or accept contributions from,

- (a) an individual normally resident outside Ontario;
- (b) a corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

Trade  
unions,  
contributions

(10) Contributions of not more than 15 cents per month by a member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of section 124 and this section, but any amount contributed to a registered candidate shall be deemed to be a contribution from the trade union.

Record of  
contributions  
to be kept

(11) Every registered candidate shall keep a record of all contributions in excess of \$25 or having a value in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contribu-

tions from a single source that in the aggregate exceed \$100, the name and address of the contributor.

**126.**—(1) In this section, “fund-raising function” means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held. Definition

(2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period. When fund-raising functions to be held

(3) The gross income from a fund-raising function shall be recorded and reported to the clerk by the registered candidate or the chief financial officer. Income to be reported

(4) If a charge is made for a fund-raising function by the sale of tickets or otherwise, any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate, be considered not to be a contribution. Where charge may be considered not a contribution

(5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of current market value shall be considered a contribution. Where amounts to be considered contributions

(6) If a meeting is held on behalf of or in relation to the affairs of a registered candidate and money is given in response to a general collection of money solicited from the persons in attendance at the meeting, no amount shall be given anonymously by any person in excess of \$10 and the amounts so given shall be considered not to be contributions, but the gross amount collected shall be recorded and reported to the clerk by the registered candidate or the chief financial officer. Collection of money at meetings

#### BORROWING

**127.**—(1) A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the registered candidate and reported to the clerk in the financial statement filed under subsection 132 (1). Borrowing

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1). Limitation

## LOAN GUARANTEE

Guarantee of loan to registered candidates prohibited

**128.**—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception

(2) An individual, corporation or trade union that is eligible to make a contribution may guarantee any loan referred to in subsection 127 (1).

Guarantee as contribution

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 127 (1) is considered to be a contribution under section 124.

## CAMPAIGN EXPENSES

Authority to incur campaign expenses

**129.**—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the registered candidate by persons authorized by the registered candidate.

Certificate of authority

(2) Every person authorized to incur a campaign expense shall, upon request, show a certificate, in the prescribed form, signed by the registered candidate as proof of the authority.

Record of campaign expenses

(3) Every registered candidate shall keep a record of all campaign expenses.

Limitation on campaign expenses

(4) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation, trade union or unincorporated association acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed the aggregate amount of \$5,500 plus \$0.50 per elector.

Idem

(5) Subject to subsection (6), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality if this office is required to be filled by the vote of the electors of an area municipality; or

- (c) member of a school board or of a local board whose members are to be elected at elections required to be conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation, trade union or unincorporated association acting on behalf of the registered candidate during the period commencing with the date of registration and ending on polling day in the election shall not exceed the amount of \$3,500 plus \$0.50 per elector.

(6) If the municipality or the school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of the wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Limitation on campaign expenses, ward elections

(7) For the purpose of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Determination of number of electors by returning officer

(8) After determining the number of electors under subsection (7), the clerk shall calculate, for each office, the maximum amount of campaign expenses that may be incurred by a registered candidate under subsection (4), (5) or (6), as applicable, certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or send by registered mail a copy of the certificate to each registered candidate for the office.

Calculation and certification of maximum campaign expenses by returning officer, etc.

(9) Certification of the maximum amount of total campaign expenses that may be incurred by a registered candidate for the office by the clerk under subsection (8) shall be conclusive evidence of that fact and shall not be open to challenge.

Certificate conclusive

**130.—**(1) Every individual, corporation or trade union that has any claim for payment in relation to a campaign expense shall submit the claim after polling day to the registered candidate who incurred the expense,

Time for submission of claims for payment

- (a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or

- (b) in the case of a new election, no later than 135 days after polling day.

Payment of expenses by registered candidate

(2) Every payment of a campaign expense shall be made by the registered candidate or the chief financial officer who incurred or on whose behalf the campaign expense was incurred and, except where the campaign expense is less than \$25, a receipt shall be obtained setting out the particulars and proof of payment.

Method of payment

(3) Payment of any campaign expense shall be made by cheque drawn on an account registered with the clerk under subsection 122 (5).

Disputed claims

(4) If the registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

#### AUDITORS

Appointment of auditor

**131.**—(1) If contributions received by a registered candidate exceed \$10,000 or expenses incurred by the registered candidate exceed \$10,000 during the campaign period, the registered candidate shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately inform the clerk of the full name and address of the auditor.

R.S.O. 1980, c. 405

Report of auditor

(2) The auditor shall make a report to the registered candidate or the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 132, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards.

Change of auditors

(3) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (4), the candidate shall immediately appoint another auditor licensed under the *Public Accountancy Act* and shall immediately notify the clerk of the full name and address of the auditor.

R.S.O. 1980, c. 405

Persons not eligible to be auditors

(4) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate.

Report of auditor

(5) If,

- (a) the auditor has not received from the registered candidate or the chief financial officer all the information and explanation that is required to make the report; or
- (b) proper accounting records have not been kept by the registered candidate or the chief financial officer,

the auditor shall make a statement to that effect in the report made under subsection (2).

(6) An auditor appointed under subsection (1) shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate. Right of access

(7) The registered candidate or the chief financial officer shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (2). Co-operation required

#### STATEMENTS, REPORTS AND STATUTORY DECLARATIONS

**132.**—(1) Subject to subsections (3) and (4), every registered candidate shall file with the clerk who was the returning officer in the election a financial statement and auditor's report in the prescribed form which shall contain, Filing of financial statement

- (a) all income received and expenses incurred in the campaign period;
- (b) a list of contributions in the form of goods or services and the value of them received by or on behalf of the registered candidate during the campaign period;
- (c) the name, address and contribution of each individual, corporation or trade union that made a contribution, whether in the form of money, goods or services, if the contribution was more than \$100; and
- (d) a list of campaign expenses, paid and outstanding, incurred in a campaign period and a statement of disputed claims.

(2) The financial statement and auditor's report under subsection (1) shall be filed, Idem

- (a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or
- (b) in the case of a new election, no later than 225 days after polling day.

Where report  
sufficient

(3) If the contributions received by or on behalf of a registered candidate do not exceed \$10,000 or expenses incurred by or on behalf of the registered candidate do not exceed \$10,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a report in the prescribed form containing the information required in subsection (1).

Where  
statutory  
declaration  
sufficient

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$1,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$1,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration in the prescribed form to that effect.

Clerk  
to prepare  
statement

(5) After the time for the filing of a statement, report or declaration under subsection (1), (3) or (4) has expired, the clerk shall immediately prepare a statement in the prescribed form disclosing,

- (a) the information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand  
to candidate  
to file

(6) After the time prescribed for making full disclosure under subsection (1) has expired, the clerk shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement, report or declaration, a notice in the prescribed form demanding that the registered candidate file a statement, report or declaration within thirty days from the date of the notice.

Contents  
of demand  
notice

(7) The notice under subsection (6) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not elected, shall be ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the



statement, report or declaration within thirty days of the date of the notice.

(8) The clerk shall post a notice of non-compliance in the prescribed form in two conspicuous places in the municipality and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

Publishing notice of non-compliance

(9) After the thirty day period for the filing of a statement, report or declaration has expired, the clerk shall immediately prepare a supplementary statement in the prescribed form disclosing,

Clerk to prepare supplementary statement

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement, report or declaration under this section, within the thirty day period allowed by subsection (6),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

**133.**—(1) If a registered candidate,

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6);
- (b) files a financial statement, a report or statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date that the clerk files the statement under subsection 132 (5); or
- (c) incurs campaign expenses in excess of the amount permitted under section 129,

Ineligibility respecting future elections

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has

Forfeiture of office

exceeded the amount referred to in clause (1) (c), the clerk shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility  
respecting  
future  
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

#### ACCESS TO DOCUMENTS

Inspection of  
documents

**134.**—(1) Documents, financial statements, reports and declarations filed with the clerk under this Part are public records and may be inspected by any person upon request at the office of the clerk during normal office hours.

Extracts and  
copies

(2) Any person may make extracts from the statements, reports or declarations referred to in subsection (1) and is entitled to copies thereof upon payment for the preparation of the copies at such rate as the clerk charges for the preparation of copies of other documents.

Not to be  
used for  
commercial  
solicitation

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the clerk under this Part for the purposes of commercial solicitation.

Section  
applicable to  
certain  
statements

(4) This section applies to a statement prepared by the clerk that is required to be submitted to the council of the municipality, the school board or local board under subsection 132 (5) or (9).

#### OFFENCES

Offence by  
corporation  
or trade  
union

**135.**—(1) A corporation or trade union that contravenes any of sections 122 to 134 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence

(2) An individual who contravenes any of sections 122 to 134, except subsection 124 (7), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

(3) If the total campaign expenses incurred by a registered candidate or any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 129 for the office subject to election, the candidate, in addition to the fine set out in subsection (2), is liable to a fine equal to the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 129.

Additional  
penalty

**136.** No prosecution shall be instituted for a contravention of any of sections 122 to 134 more than one year after the facts upon which the prosecution is based first came to the knowledge of the informant.

One year  
limitation

**137.—**(1) No person shall obstruct a person making an investigation or examination under this Act or withhold or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

Obstructing  
investigation,  
etc.

(2) No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the clerk under section 132 or 133.

False  
statements

### PART III

**138.—**(1) In this Part,

Definitions

“broadcasting undertaking” means a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada);

R.S.C. 1970,  
c. B-11

“campaign expense” means an expense incurred for goods or services in relation to an election by or on behalf of a registered candidate for use in whole or in part for the purpose of the election of the registered candidate at the next election including the value of goods held in inventory, fees or expenses for services for any registered candidate and contributions of goods and services to the registered candidate but not including,

- (a) auditor’s and accounting fees,
- (b) interest on loans authorized under section 162,
- (c) an expense incurred in holding a fund-raising function referred to in section 153,
- (d) an expense incurred for victory parties and appreciation notices published after polling day,

- (e) an expense relating to a recount in respect of the election,
- (f) an expense relating to an action commenced under section 106, and
- (g) other expenses not of partisan value that are set out in guidelines provided by the Commission;

“campaign period” means the period commencing on,

- (a) in the case of a regular election, the 1st day of January of an election year, or
- (b) in the case of a new election, the day on which,
  - (i) an order to hold a new election is given in any judicial proceedings,
  - (ii) the council of the municipality passes a by-law to hold a new election,
  - (iii) the clerk receives from the secretary of a school board notice that a new election is required, or
  - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
c. 302

and ending,

- (c) in the case of a regular election, on the 31st day of March in the year following the election year, or
- (d) in the case of a new election, 135 days after polling day;

1986, c. 33

“Commission” means the Commission on Election Finances established by the *Election Finances Act, 1986*;

“contribution” means a contribution made to a representative of a registered candidate but does not include,

- (a) any goods produced for a registered candidate by voluntary unpaid labour,
- (b) any service voluntarily performed for a candidate by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in

excess of what the individual would receive during the period the service was performed, and

- (c) any moneys, goods or services solicited by or donated to a registered candidate for purposes other than those set out in subsection 143 (3);

“municipality” means a city, town, village, police village, township, regional municipality or metropolitan municipality;

“news reporting done in good faith” means interviews, commentaries or other works prepared for and published by any newspaper, magazine or other periodical publication or broadcast on the facilities of any broadcasting undertaking without charge to any candidate registered under this Part;

“outdoor advertising facilities” means outdoor facilities provided by any person that is in the business of providing these facilities on a commercial basis for advertising purposes but does not include radio, television, newspaper, magazine or other periodical publications;

“registered candidate” means a candidate registered under section 143;

“trade union” has the same meaning as in Part II.

(2) Where a corporation is associated with another corporation under section 256 of the *Income Tax Act* (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125 (6) (d) of the *Income Tax Act* (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this Part.

Associated corporations  
R.S.C. 1952,  
c. 148

#### APPLICATION

**139.**—(1) Notwithstanding Part II, the council of a municipality may pass a by-law to have this Part apply to elections for the office of member of council including the head of the council of the municipality.

Council may  
by by-law  
adopt this  
Part

(2) If a by-law is passed under subsection (1), this Part applies to the election of members of council.

Application  
of Part

(3) Where the council of a regional municipality or metropolitan municipality passes a by-law under subsection (1), the clerk of the regional or metropolitan municipality shall send a copy of the by-law to the Commission and to the clerk of any

By-laws to  
be sent to  
Commission  
and clerk

area municipality who is responsible for the conduct of any election to the council of the regional or metropolitan municipality.

By-laws to  
be sent to  
Commission

(4) Where the council of a municipality, other than a regional or metropolitan municipality, passes a by-law under subsection (1), the clerk of the municipality shall send a copy of the by-law to the Commission.

School board  
may adopt  
this Part

**140.**—(1) Notwithstanding Part II, where members of a school board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the school board may pass a resolution to have this Part apply to elections of members of the board.

Application  
of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of members of the board.

Resolution of  
school board  
to be sent to  
Commission  
and clerk

(3) Where a school board passes a resolution under subsection (1), the secretary of the board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

Local board  
may adopt  
this Part

**141.**—(1) Notwithstanding Part II, where members of a local board are to be elected at elections to be conducted by the same officers and in the same manner as elections of members of the council of a municipality, the local board may pass a resolution to have this Part apply to elections of members of the board.

Application  
of Part

(2) If a resolution is passed under subsection (1), this Part applies to elections of the board.

Resolution of  
local board  
to be sent to  
Commission  
and clerk

(3) Where a local board passes a resolution under subsection (1), the secretary of the local board shall send a copy of the resolution to the Commission and to the clerk of the municipality who is responsible for the conduct of the elections of the board.

When by-  
laws or  
resolution to  
be passed or  
repealed

**142.** A by-law under section 139 or a resolution under section 140 or 141 shall be passed prior to the 1st day of January of an election year and, once passed, shall remain in force until repealed by a by-law of the council of the municipality or by a resolution of the school board or the local board, as the case may be, but no such repealing by-law or resolution shall be passed or take effect in an election year.

## REGISTRATION

**143.**—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the Commission an application for registration under this Part.

Application  
for  
registration  
as candidate

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the Commission no earlier than the day on which,

Application,  
new elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board notice that a new election is required; or
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*,

R.S.O. 1980,  
c. 302

and not later than nomination day.

(3) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contribu-  
tions to  
unregistered  
candidate

(4) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate who files an application for registration with the Commission setting out,

Register

- (a) that the person,
  - (i) has been duly nominated for election to office in accordance with this Act and whose nomination is certified by the clerk, or
  - (ii) has not been so nominated but proposes to become so;

- (b) the name of the office for which the candidate has been or proposes to be nominated;
- (c) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (d) the full name and address of the registered candidate;
- (e) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (f) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (g) the full name and addresses of all persons authorized by the registered candidate to accept contributions;
- (h) the name and address of every chartered bank, trust company or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions;
- (i) the full names and addresses of the persons responsible for making the deposits referred to in clause (h).

Effective date of registration

(5) A registered candidate who files an application under subsection (4) shall be deemed to be registered on the day of filing.

Idem

(6) An application under subsection (4) may be filed with the Commission by registered mail in which case it shall be deemed to be filed on the day it is mailed.

Where registered candidate withdraws, etc.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal;
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day;



- (c) where the election is by acclamation, on the day of acclamation; and
- (d) where the registered candidate dies, on the day of death,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in clauses (4) (d) to (i) is altered, the candidate shall immediately notify the Commission in writing of the alteration, and, upon receipt of the notice, the Commission shall vary the register accordingly.

Variation of register

**144.**—(1) After registering a candidate under subsection 143 (4), the Commission shall notify in writing the clerk of the municipality who is responsible for the conduct of the election and indicate to the clerk,

Notification by Commission to clerk

- (a) the full name and address of the registered candidate; and
- (b) the name of the office for which the registered candidate has been, or will be nominated.

(2) The clerk shall maintain a list of all registered candidates and the office for which the registered candidate has been, or will be, nominated.

Clerk to maintain list of candidates

(3) Where the full name and address of a registered candidate is varied by the Commission under subsection 143 (8), the Commission shall immediately notify the clerk in writing of the variation, and, upon receipt of the notice, the clerk shall vary the list of registered candidates accordingly.

Notification of changes

#### CHIEF FINANCIAL OFFICERS

**145.**—(1) Every person who is applying for registration under this Part, before filing an application with the Commission, shall appoint a chief financial officer.

Chief financial officer

(2) Where the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer and shall immediately give notice in writing to the Commission of the full name and address of the new chief financial officer.

Replacement

Duties  
of chief  
financial  
officer

(3) The chief financial officer shall be responsible for ensuring that,

- (a) proper records are kept of all receipts and expenses;
- (b) contributions are placed in a depository on record with the Commission;
- (c) proper receipts are completed and dealt with in accordance with this Part;
- (d) the financial statements as required by section 169 together with the auditor's report on those statements, are filed with the Commission in accordance with this Part;
- (e) contributions consisting of goods or services are valued and recorded in accordance with this Part; and
- (f) proper direction is given to persons authorized to incur expenses.

#### CONTRIBUTIONS

Contributions

**146.**—(1) Contributions to registered candidates may be made by individuals, corporations and trade unions only during the campaign period.

How contri-  
butions of  
money to  
be made

(2) Money contributions to registered candidates in amounts in excess of \$25 shall be made only by,

- (a) a cheque having the name of the contributor legibly printed or typed on it and drawn on an account in the contributor's name;
- (b) a money order signed by the contributor; or
- (c) in the case of money contributions by an individual, the use of a credit card having the name of the individual contributor imprinted or embossed on it.

Deposit  
of funds

(3) All moneys accepted by or on behalf of a registered candidate shall be paid into an account on record with the Commission.

Refund of  
contributions

**147.**—(1) If the chief financial officer learns that any contribution received by or on behalf of the registered candidate was made or received in contravention of this Part, the chief financial officer shall, within thirty days after so learning and

upon obtaining the contributor's copy of the receipt issued under section 155 in respect of that contribution, return the contribution or an amount equal to the sum contributed.

(2) Any contributions not returned to the contributor in accordance with subsection (1) or any anonymous contribution received by a registered candidate shall not be used or spent, but shall be paid over to the Commission and become part of the general funds of the Commission to be used by the Commission in carrying out its responsibilities under this or any other Act.

Anonymous contributions

**148.—**(1) No individual, corporation or trade union shall make a contribution in money, goods and services to a registered candidate which in total exceeds \$750 in value during any campaign period.

Limitation on contributions

(2) Any moneys used for an election campaign by a registered candidate out of the candidate's own funds or those of the spouse of the registered candidate shall be considered to be a contribution for the purposes of this Part, but the limit on the total amount or value of contributions established under subsection (1) does not apply in respect of those funds.

Registered candidate's funds, spouse's funds

(3) Every registered candidate shall submit to the chief financial officer a statement in writing setting out all campaign expenses paid or to be paid out of the registered candidate's own funds or those of the spouse of the candidate, together with all receipts and claims for those expenses, within six months after polling day.

Statement to be submitted

**149.—**(1) Subject to section 159, no individual, corporation or trade union shall contribute to any registered candidate funds not actually belonging to the individual, corporation or trade union.

Contributor to contribute only funds belonging to contributors

(2) Subsection (1) does not apply to the personal representative of the estate of a person who has died leaving a will where the deceased person has directed in the will that the personal representative make a contribution to a named registered candidate out of the funds of the estate.

Exception

(3) No registered candidate and no individual, corporation or trade union on behalf of the candidate, shall solicit or accept any contribution contrary to subsection (1).

Prohibition

**150.** No registered candidate shall accept funds from,

No funds from political parties, etc. 1973-74, c. 14 (Can.)

(a) a federal political party registered under the *Canada Elections Act* or any federal constituency association

or candidate at a federal election endorsed by such federal political party;

- (b) a provincial political party, constituency association, candidate or leadership contestant registered under the *Election Finances Act, 1986*.

1986, c. 33

Determi-  
nation of  
value of  
goods and  
services

**151.**—(1) The value of goods and services provided as a contribution to a registered candidate is,

- (a) where the contributor is in the business of supplying these goods and services, the lowest amount charged by the contributor for an equivalent amount of similar goods and services at or about the time and in the same market area;
- (b) where the contributor is not in the business of supplying these goods or services, the lowest amount charged, at or about the time the goods or services are provided, by any other individual, corporation or trade union providing similar goods or services on a commercial retail basis in the same market area.

Where goods  
or services  
less than  
\$100

(2) Goods or services having a total value of \$100 or less may, at the option of the individual, corporation or trade union providing these goods or services, be considered not to be a contribution for the purposes of this Part.

Where goods  
or services  
provided at  
less than  
value

(3) Where goods or services are provided to a registered candidate for a price that is less than the value of the goods or services as determined under subsection (1), the amount that the price is less than that value shall, subject to subsection (2), be a contribution for the purpose of this Part.

Political  
advertisements

**152.**—(1) Where any individual, corporation or trade union with the knowledge and consent of a registered candidate promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcasting undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or through the use of any outdoor advertising facility and the amount of the cost of the advertisement,

- (a) in the case of any single advertisement, is more than \$100; and

- (b) in the case of any advertisements from a single service broadcast or published in any campaign period, in total exceeds \$100,

this amount shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

(2) Notwithstanding subsection (1), where political advertising is provided on the facilities of any broadcasting undertaking without charge to registered candidates in a particular municipality or school board or local board jurisdiction in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines issued thereunder, such political broadcasts shall not be considered a contribution or a campaign expense.

Idem

R.S.C. 1970, c. B-11

(3) No individual, corporation or trade union shall cause any political advertisement to be broadcast on the facilities of any broadcasting undertaking or published in any newspaper, magazine or other periodical publication or through the use of any outdoor advertising facility unless the broadcaster or publisher of the political advertisement is furnished with the identification, in writing, of the individual, corporation or trade union sponsoring the political advertisement.

Identity of sponsor of advertisement to be known

(4) A broadcaster who broadcasts or a publisher who publishes a political advertisement shall maintain records for a period of two years after the date of the broadcast or publication setting out the advertisement, the charge for it and any material relating to identification furnished to the broadcaster or publisher in connection with the advertisement and shall permit the public to inspect these records during normal office hours.

Records to be maintained of political advertisement

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the individual, corporation or trade union sponsoring the political advertising.

Name of sponsor to be included in political advertising

(6) In this section, "political advertisement" and "political advertising" mean any matter promoting or opposing the election of any registered candidate for which a fee is paid, but does not include any news reporting done in good faith.

Definition

**153.**—(1) In this section, "fund-raising function" means events or activities held for the purpose of raising funds for the registered candidate by whom or on whose behalf the function is held.

Definition

- Restriction on fund raising (2) A fund-raising function held by or on behalf of a registered candidate shall be held only during the campaign period.
- Income to be reported to Commission (3) The gross income from any fund-raising function shall be recorded and reported to the Commission by the chief financial officer of the registered candidate who held the function or on whose behalf the function was held.
- Sale of tickets, etc. (4) Where a charge by the sale of tickets or otherwise is made for a fund-raising function, all or any portion of this charge, up to a maximum of \$25, may, at the option of the registered candidate by whom or on whose behalf the function was held, be considered not to be a contribution for the purposes of this Part.
- Excess payments considered contributions (5) Any amount paid for goods or services offered for sale at a fund-raising function in excess of the highest amount charged, at or about the time the goods or services are provided, by any other person providing similar goods on a commercial basis in the same market area shall be considered a contribution.
- Collections at meeting **154.**—(1) Where, at a meeting held on behalf of a registered candidate, money is given in response to a general collection of money solicited, no amount shall be given anonymously by any person in excess of \$10.
- Idem, reporting of amount (2) The amounts given under subsection (1) shall be considered not to be contributions but the gross amount collected shall be recorded and reported to the Commission by the chief financial officer.
- Receipts to be issued for contributions **155.**—(1) Every registered candidate shall issue or cause to be issued receipts in the form prescribed by the Commission for every contribution accepted.
- Form of receipt (2) A receipt prescribed by the Commission under subsection (1) shall provide, on its face, for the acknowledgment of the contribution accepted by or on behalf of the registered candidate and, on its back, for an application to the clerk of the municipality who was responsible for conducting the election for a tax credit that the contributor is eligible to receive under this Part on account of the contribution.
- Group contributions to be recorded as to source **156.**—(1) Any contribution to a registered candidate made through any unincorporated association, except a trade union, shall be recorded by the unincorporated association as to the individual sources and the amounts making up the contribution.

(2) The amounts making up a contribution under subsection (1) that are attributable to any individual, corporation or trade union are contributions of that individual, corporation or trade union. Idem

**157.** No registered candidate and no individual, corporation or trade union on behalf of the candidate shall solicit or accept any contributions in excess of the limits imposed by this Part. Prohibition

**158.** No registered candidate shall directly or indirectly solicit or accept contributions from, Restriction on contributions

- (a) any individual normally resident outside Ontario;
- (b) any corporation that does not carry on business in Ontario; or
- (c) a trade union other than a trade union as defined in this Part.

**159.** Contributions of not more than 15 cents per month by any member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from an individual for the purpose of this Part, but any amounts contributed to a registered candidate from these funds shall be considered to be a contribution from the trade union. Contributions by payroll deduction not to be accepted

**160.** No contribution shall be accepted by a registered candidate except through the chief financial officer or other person on record with the Commission as authorized to accept contributions. Contributions not to be accepted by candidate directly

**161.** Every registered candidate shall keep a record of all contributions in excess of \$25, whether in the form of money, goods or services, and in the case of a single contribution in excess of \$100, or contributions from a single source that in the aggregate exceed \$100, the name and address of the contributor. Record of contributions to be kept

BORROWING

**162.—(1)** A registered candidate may borrow from any chartered bank or other recognized lending institution in Ontario, if the loan and its terms, including the name of any guarantor of a loan, are recorded by the candidate and reported to the Commission. Borrowing

Limitation

(2) No registered candidate shall receive a loan from any individual, corporation, trade union or unincorporated association, other than from a chartered bank or other recognized lending institution as set out in subsection (1).

## LOAN GUARANTEE

Guarantee of loans to registered candidates prohibited

**163.**—(1) Subject to subsection (2), no individual, corporation, trade union or unincorporated association shall sign, co-sign or provide collateral security for any loan, monetary obligation or indebtedness for or on behalf of any registered candidate.

Exception

(2) An individual, corporation or trade union that is eligible to make a contribution under this Part may guarantee any loan referred to in subsection 162 (1).

Guarantee as contribution

(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 162 (1) is considered to be a contribution under section 148.

## CAMPAIGN ADVERTISING

Restriction on advertising

**164.**—(1) No registered candidate and no individual, corporation or trade union acting with the candidate's knowledge and consent shall, except during the period of twenty-eight days immediately preceding the day before polling day,

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for the purposes of promoting or opposing the election of a registered candidate.

Idem

(2) No individual or corporation shall, during the period prescribed in subsection (1), broadcast on the facilities of any broadcasting undertaking or publish in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities an advertisement promoting or opposing the election of a registered candidate on behalf of any registered candidate or any individual, corporation or trade union acting with the candidate's knowledge or consent.

Exemptions

(3) Subsections (1) and (2) do not apply to,



- (a) advertising public meetings in the municipality or the jurisdiction of the school board or local board, as the case may be;
- (b) announcing the location of the campaign headquarters of a candidate;
- (c) advertising for volunteer campaign workers;
- (d) announcing services for electors by candidates respecting the revision of the preliminary list and additions to the polling list;
- (e) announcing services for electors on polling day; or
- (f) any other matter respecting administrative functions of a candidate's campaign headquarters,

if the advertisements, announcements and other matters are done in accordance with the guidelines of the Commission.

(4) Nothing contained in subsection (1) prohibits news reporting done in good faith during the period referred to in subsection (1) or the procuring for publication or the publishing of, Idem

- (a) an advertisement referred to in subsection (1) on the day immediately preceding polling day in a newspaper which is published in the municipality or in the jurisdiction of the school board or local board, as the case may be, not more frequently than once a week if the day of regular publication falls on the day immediately preceding polling day; or
- (b) an advertisement referred to in subsection (1) on the day immediately preceding polling day and on polling day through the use of any outdoor advertising facility.

(5) Nothing in subsection (1) prohibits the broadcasting on the facilities of a broadcasting undertaking of news reporting done in good faith in accordance with the *Broadcasting Act* (Canada) and the regulations made and guidelines published thereunder during the period referred to in subsection (1). Idem,  
broadcasting  
R.S.C. 1970,  
c. B-11

(6) No individual or corporation shall,

- (a) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for broadcasting time on any broadcasting undertak-

Limitations  
on charges  
for  
broadcasting,  
publishing

ing in the period beginning on the twenty-eighth day before the day immediately before polling day at an election and ending on the second day before polling day, that exceeds the lowest rate charged by the individual or corporation for an equal amount of equivalent time on the same facilities made available to any other person in that period; or

- (b) charge a registered candidate, or any person acting with the candidate's knowledge and consent, a rate for an advertisement in a periodical publication published or distributed and made public in the period referred to in clause (a) that exceeds the lowest rate charged by the individual or corporation for an equivalent amount of advertising space in the same issue of the periodical or in any issue published or distributed and made public in that period.

#### CAMPAIGN EXPENSES

Authorized expenses

**165.**—(1) The campaign expenses of a registered candidate shall be incurred only under the direction of the chief financial officer of the candidate by persons authorized by the chief financial officer.

Proof of authority

(2) Every person authorized to incur a campaign expense by a chief financial officer under subsection (1) shall, upon request, show a certificate, in the form prescribed by the Commission, signed by the chief financial officer as proof of the authority.

Limitation on campaign expenses, head of council

**166.**—(1) The total campaign expenses incurred by a registered candidate in an election for the office of head of council of a municipality and any individual, corporation or trade union acting on behalf of that registered candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$5,500, plus \$0.50 per elector.

Idem, members of council, etc.

(2) Subject to subsection (3), the total campaign expenses incurred by a registered candidate in an election for the office of,

- (a) member of council, other than head of council, of a municipality;
- (b) member of council of a regional municipality where this office is required to be filled by the vote of the electors of an area municipality;

- (c) member of a school board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality; or
- (d) member of a local board if the members are to be elected at elections conducted by the same officers and in the same manner as elections of members of the council of a municipality,

and any individual, corporation or trade union acting on behalf of that candidate during the period commencing with the date of registration and ending on polling day shall not exceed \$3,500, plus \$0.50 per elector.

(3) Where the municipality, school board or local board jurisdiction is divided into wards and the election is for an office to represent the electors of one or more of those wards, the number of electors to be used in the calculation of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office shall be the total number of electors in the ward or wards, as the case may be.

Campaign expenses, ward system

(4) For the purposes of this section, the number of electors in a municipality or a school board or local board jurisdiction or a ward of the municipality or the school board or local board jurisdiction shall be determined by the clerk on the basis of information obtained from the polling list.

Determination of number of electors

(5) After determining the number of electors under subsection (4), the clerk shall calculate, for each office, the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for an office under subsection (1) or (2), and certify this amount in the prescribed form and, no later than ten days after nomination day, deliver or cause to be delivered personally or send or cause to be sent by registered mail a copy of the certificate to each registered candidate for the office and to the Commission.

Duties of clerk

(6) Certification of the maximum amount of total campaign expenses that may be incurred by or on behalf of a registered candidate for the office by the clerk under subsection (5) is conclusive evidence of the fact.

Clerk's certificate conclusive

**167.**—(1) Every individual who or corporation or trade union which has any claim for payment in relation to a campaign expense shall submit the claim to the chief financial officer of the registered candidate who incurred the expense,

Submission of payment claims

- (a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or
- (b) in the case of a new election, no later than 135 days after polling day.

Payment  
of claims

(2) Every payment of a campaign expense shall be made by the chief financial officer of the registered candidate who incurred the campaign expense and, except where the campaign expense is less than \$25, the chief financial officer shall set out the particulars of payment.

Disputed  
claims

(3) Where the chief financial officer of a registered candidate disputes or refuses to pay any claim for payment in relation to a campaign expense, that claim shall be considered to be a disputed claim.

#### AUDITORS

Appointment  
of auditor

R.S.O. 1980,  
c. 405

**168.**—(1) Every candidate, at the time of appointing a chief financial officer, shall appoint an auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Change of  
auditors

R.S.O. 1980,  
c. 405

(2) If an auditor appointed under subsection (1) ceases to hold office, ceases to be qualified under subsection (1) or becomes ineligible under subsection (3), the candidate shall immediately appoint another auditor licensed under the *Public Accountancy Act* and shall immediately notify the Commission of the full name and address of the auditor.

Persons not  
eligible to be  
auditors

(3) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate.

Report of  
auditor

(4) The auditor shall make a report to the chief financial officer of the registered candidate who appointed the auditor in respect of the financial statements, as required by section 169, and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor to report on them in accordance with generally accepted auditing standards.

Idem

(5) If,

- (a) the auditor has not received from the chief financial officer all the information and explanation that is required; or
- (b) proper accounting records have not been kept by the chief financial officer so far as appears from the auditor's examination,

the auditor shall make a statement to that effect in the report made under subsection (4).

(6) An auditor shall have access at all reasonable times to the records, documents, books, accounts and vouchers of the registered candidate. Right of access

(7) The chief financial officer of the candidate shall provide such information and explanation as is necessary to enable the auditor to make the report under subsection (4). Co-operation required

#### FINANCIAL STATEMENTS

**169.**—(1) The chief financial officer of every registered candidate shall file with the Commission, Filing of financial statements with Commission

- (a) a financial statement setting out,
  - (i) all income received and expenses incurred in the campaign period,
  - (ii) all campaign expenses, paid and outstanding, incurred in a campaign period and a statement of all disputed claims, and
  - (iii) all information required to be recorded under section 161 that relates to the campaign period; and

(b) the auditor's report on the financial statement.

(2) The financial statement and auditor's report under subsection (1) shall be filed, Idem

- (a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or
- (b) in the case of a new election, no later than 225 days after polling day.

Filing of financial statements with clerk of municipality

(3) The chief financial officer shall, at the time of filing with the Commission, file a copy of the financial statement and the auditor's report referred to under subsection (1) with the clerk of the municipality who was responsible for the conduct of the election for which the registered candidate was registered.

Commission to prepare statement

(4) After the time for the filing of a financial statement and auditor's report has expired, the Commission shall immediately prepare a statement disclosing,

- (a) the information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a statement or report under this section,

and submit the statement to the council of the municipality, school board or local board, as the case may be.

Demand to candidate to file

(5) After the time for the filing of the financial statement and auditor's report has expired, the Commission shall immediately send by registered mail or deliver to a registered candidate who has failed to file a statement and report, a notice in the form prescribed by the Commission demanding that the registered candidate file a financial statement and auditor's report within thirty days from the date of the notice.

Contents of demand notice

(6) The notice under subsection (5) shall state that the registered candidate, if elected, shall forfeit the office and that the registered candidate, whether elected or not, is ineligible to hold any office up to and including the next regular election if the registered candidate fails to file the financial statement and auditor's report within thirty days of the date of the notice.

Publication of notice

(7) The Commission shall publish the notice under subsection (5) in a newspaper having general circulation in the municipality.

Commission to prepare supplementary statement

(8) After the thirty day period for the filing of a statement and report has expired, the Commission shall immediately prepare a supplementary statement disclosing,

- (a) any additional information received under this section; and
- (b) the name of the registered candidate, if any, who failed to file a financial statement and auditor's

report within the thirty day period allowed under subsection (5),

and submit the statement to the council of the municipality, school board or local board, as the case may be.

#### SURPLUS

**170.**—(1) Where the financial statement of a registered candidate filed under section 169 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election. Surplus funds

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the clerk has been notified by the Commission under section 143 that the candidate has become registered under this Part for that election. Release of funds, regular elections

(3) Where the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk, upon being so notified by the Commission, shall release the surplus to the candidate for use in whole or in part in that new election. Idem, new elections

(4) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust under subsection (1) where the office for which the candidate has been, or will be, nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced. Restriction

(5) Where the candidate for whose benefit the surplus is held in trust under subsection (1), Disposal of surplus

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered,

in the next regular election, the surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Idem

(6) Upon the repeal of any by-law passed under section 139 or any resolution passed under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

Ineligibility  
respecting  
future  
elections

**171.**—(1) If a registered candidate,

- (a) fails to file a financial statement and auditor's report within thirty days of the date of the notice sent under subsection 169 (5);
- (b) files a financial statement and auditor's report that is either incorrect or does not comply with section 169 and fails to file a correction statement and report within thirty days from the date that the Commission files the statement under subsection 169 (5); or
- (c) incurs campaign expenses in excess of the amount permitted under section 166,

the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.

Forfeiture  
of office

(2) If a registered candidate who is declared elected, fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, to which the registered candidate was elected and the office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Ineligibility  
respecting  
future  
elections

(3) If the office to which a registered candidate was elected subsequently becomes vacant and the registered candidate has forfeited the office under subsection (2), the registered candidate, in addition to any other penalty, is ineligible to be elected a member of the council, school board or local board or to hold office as a member thereof or to hold any other office in the municipality up to and including the next regular election.



**172.**—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless before that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility where surplus not paid to clerk

(2) Where,

Office declared vacant

- (a) a registered candidate is declared elected;
- (b) the financial statement of the candidate shows a surplus; and
- (c) the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170,

the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, to which the candidate was elected and the office to which the candidate was elected shall be immediately declared vacant and, in addition, the candidate is liable to any other penalty that may be imposed under this Act.

(3) Where the office to which a registered candidate was declared elected is subsequently declared vacant under subsection (2), the candidate, in addition to any other penalty, is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless prior to that subsequent election the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility respecting future elections

#### TAX CREDIT

**173.**—(1) Every individual who and every corporation or trade union which made a contribution to a candidate registered under this Part during the campaign period of an election may within one year of polling day apply, in the form prescribed by the Commission, to the clerk of the municipality who was responsible for conducting the election to receive a tax credit.

Tax credit

(2) The tax credit which a contributor is eligible to receive under subsection (1) is an amount equal to,

Amount of tax credit

- (a) 75 per cent of the total amount contributed by the contributor to all candidates if the amount contributed does not exceed \$100;
- (b) \$75 plus 50 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$100 and does not exceed \$400; or
- (c) the lesser of,
  - (i) \$225 plus 33 1/3 per cent of the amount by which the total amount contributed by the contributor to all candidates exceeds \$400 if the total amount contributed exceeds \$400, and
  - (ii) \$350,

if payment of each amount that is included in the total amount contributed by the contributor to all registered candidates is proven by receipts in the form prescribed by the Commission that are signed by a recorded agent of the candidate.

Reduction of  
tax credits

(3) A tax credit under subsection (2),

- (a) shall first be applied by the clerk to reduce any arrears in taxes or other debts then owing to the municipality by the contributor; and
- (b) may be applied to offset current taxes, at the request of the contributor.

Payment of  
rebates

(4) Where the contributor does not owe any taxes or other debts to the municipality or does not make the request under clause (3) (b), the clerk shall pay to the contributor an amount equal to the amount of the tax credit which the contributor is eligible to receive under subsection (2).

Recovery of  
tax credit

(5) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional or metropolitan municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional or metropolitan municipality by billing the regional or metropolitan municipality for that amount.

Recovery of  
tax credit  
from school  
board

(6) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a reg-

istered candidate in a school board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the school board by billing the school board for that amount.

(7) Where the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in a local board election, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the local board by billing the local board for that amount.

Recovery of tax credit from local board

(8) No tax credit shall be provided to a contributor under subsection (3) or (4) until the Commission has notified the clerk in writing that all of the financial statements and auditor's reports filed with it by the chief financial officers of the registered candidates in the election as required by section 169 have been examined.

Condition for giving tax credits

(9) Tax credits shall be issued to contributors only during the one-year period following receipt of the notice given by the Commission under subsection (8).

Time restriction

(10) No tax credit shall be provided to a contributor under subsection (3) or (4) for a contribution to a registered candidate where the chief financial officer of the candidate has failed to file the financial statement and auditor's report required by section 169 or where the financial statement and auditor's report of the candidate have been found by the Commission to be unsatisfactory.

Refusal of tax credit

(11) In this section, "tax credit" includes a rebate of contributions.

Interpretation

#### ACCESS TO DOCUMENTS

**174.**—(1) Documents filed with the Commission or the clerk of a municipality under this Part are public records and may be inspected by any person upon request at the office of the Commission or of the clerk during normal office hours.

Inspection of documents

(2) Any person may make extracts from the documents referred to in subsection (1) and is entitled to copies of the documents upon payment for the preparation of the copies at such rate as the Commission may determine or at such rate as the clerk charges for the preparation of copies of other documents.

Extracts and copies

(3) No individual, corporation or trade union shall use any of the information contained in any document filed with the

Not to be used for commercial solicitation

Commission or the clerk under this Part for the purpose of commercial solicitation.

#### FORMS

Form

**175.** All applications, returns, statements and other documents to be filed with the Commission shall be filed in the form prescribed by the Commission.

#### POWERS AND DUTIES OF COMMISSION

Powers and  
duties of  
Commission  
1986, c. 33

**176.** Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission in the administration of this Part.

#### OFFENCES

Offence,  
chief  
financial  
officer

**177.**—(1) The chief financial officer of a registered candidate who contravenes section 169 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Idem,  
candidate

(2) Where any contravention of this Part that is an offence by virtue of subsection (1) is committed by a chief financial officer of a registered candidate, the candidate for which the chief financial officer acts is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence,  
candidate

**178.** Where the total campaign expenses incurred by a registered candidate and any individual, corporation or trade union acting on behalf of the candidate during the campaign period exceeds the amount determined under section 166 for the office subject to election, the registered candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount by which the total campaign expenses of the candidate exceeded the amount determined under section 166.

Offence,  
candidate

**179.** Where the financial statement of a registered candidate shows a surplus and the surplus is not paid over to the clerk as required by section 170, the candidate is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 plus the amount of the surplus.

Offence,  
corporations,  
trade union

**180.** Every corporation or trade union that contravenes any of sections 143 to 174 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

**181.** Every individual who contravenes any of sections 143 to 174, except subsection 148 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence, individuals

**182.** No person shall obstruct a person making an investigation or examination under this Part or withhold, conceal or destroy or alter any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

Obstruction prohibited

**183.** No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the Commission under this Part.

Prohibition, false statements

**184.** No person shall knowingly give false information to a chief financial officer or other person authorized to accept contributions.

Prohibition, false information

**185.—(1)** A prosecution for an offence under this Part may be instituted against a trade union in the name of the trade union and, for the purposes of any prosecution, the trade union shall be deemed to be a person.

Prosecution of trade unions

(2) Any act or thing done or omitted by an officer or agent of a trade union within the scope of the officer's or agent's authority on behalf of the trade union shall be deemed to be an act or thing done or omitted by the trade union.

Trade union liable for acts of agents

**186.** No prosecution shall be instituted under this Part without the consent of the Commission and no prosecution shall be instituted more than one year after the facts upon which the prosecution is based first came to the knowledge of the Commission.

Consent of Commission

**13.** Section 37 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by inserting after "qualified" in the first line "to be elected or".

**14.** Section 38 of the said Act is amended by adding thereto the following subsection:

(1a) A member of council who ceases to hold the qualifications required under clause 37 (a) is disqualified from holding the office of member of council.

Member to maintain eligibility

**15.—(1)** For the purpose of the 1988 regular elections, the campaign period commences on the day this Act comes into force.

Transition

(2) For the purpose of the 1988 regular elections, a municipality, school board or local board may pass a by-law or reso-

Idem

lution to have Part III apply to the election if the by-law or resolution is passed within sixty days after the coming into force of this Act.

Commence-  
ment

**16.—(1)** This Act, except section 3, comes into force on the day it receives Royal Assent.

Idem

**(2)** Section 3 comes into force on the 1st day of January, 1991.

Short title

**17.** The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1988*.







# Bill 107

## **An Act to amend the Child and Family Services Act, 1984**

The Hon. J. Sweeney  
*Minister of Community and Social Services*

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*1st Reading*      April 7th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

**SECTIONS 1 and 2.** The new subsection 40 (2a) provides that justices of the peace should not refuse to issue a warrant to apprehend a child simply because the Act provides for apprehension without a warrant.

It is provided that warrants for apprehending children need not specify the premises where the child is located.

The provisions concerning apprehension of children who are runaway wards of a society are removed from section 40 and incorporated into the new section 40a. The purpose of the removal is to provide that on apprehension of runaway wards there does not have to be a new hearing to find them in need of protection. The present subsection 40 (10), dealing with apprehension of children under twelve who have committed an offence, becomes the new section 40b.

The new section 40c deals with runaway children. It authorizes a justice of the peace to issue a warrant for the apprehension of a child on the basis of the sworn information of the child's parent (a defined term) that the child has withdrawn from the parent's care and control without consent and that the parent believes that the child's health or safety may be at risk if the child is not apprehended. A child apprehended under this section would be returned to the parent unless the parent is not available or the child appears to be in need of protection.

Sections 40d and 40e extend the application of provisions now in section 40 concerning right of entry and protection from personal liability to sections 40a and 40c.

**SECTION 3.** Subsection 42 (2) is amended as a result of amendments in sections 1 and 2.

**SECTIONS 4 and 5.** Housekeeping.

**SECTION 6.** Subsection 75 (5) prohibits a person having charge of a child from allowing the child to loiter in a public place or be unaccompanied in a place of public entertainment between midnight and 6 a.m. Subsection 75 (6) authorizes the apprehension of a child who is doing one of these things. The subsections are amended to put the prohibition on the parent rather than on the person in charge of the child and to require that any child out at that time of night is with the parent or an adult specifically authorized by the parent.

**SECTION 7.** The offence provision is amended as a result of the amendments in sections 1 and 2 of the Bill.

**SECTION 8.** Subsection 89 (2) sets out the circumstances under which the Provincial Director may detain a young person in a place of secure temporary detention to ensure the young person's attendance in court or to protect the public interest or safety. It is expanded to allow the Provincial Director to so detain a young person who leaves or attempts to leave a place of temporary detention without consent or who is charged with having escaped or attempting to escape from lawful custody or being unlawfully at large under the *Criminal Code*.

**SECTION 9.** This section authorizes the apprehension of young persons who are absent from custody without permission. It is amended to correspond to the amendments in section 6 of the Bill, above, and to give greater flexibility in deciding where to take such a young person, once apprehended.

The power to enter premises by force if necessary to search for and remove a young person who is absent from custody under section 94 is extended to apply to entry without a warrant.

**SECTIONS 10 to 17.** The provisions dealing with orders for commitment to a secure treatment program (sections 110-117) are amended,

- (a) to permit orders to be made for any period up to 180 days (the Act now provides for orders for the full 180 days);
- (b) to permit one extension of an order after a child's eighteenth birthday;
- (c) to permit a parent, society or child twelve years of age or older to apply for review of commitment to a secure treatment program;
- (d) to permit a society that has custody of a child to receive a copy of an assessment report done in respect of an application for commitment.

The provision dealing with emergency commitment to a secure treatment program (section 118) is amended,

- (a) to allow the administrator to admit a child for a period of up to thirty days without court authorization;
- (b) to modify the criteria for emergency commitment;
- (c) to require the administrator within twenty-four hours of the child's admission to notify a child who is admitted of his or her right to a review and to notify the Office of Child and Family Service Advocacy and the Official Guardian of the child's admission;
- (d) to require the Office of Child and Family Service Advocacy to ensure that the child receives an explanation of his or her rights forthwith and to require the Official Guardian to ensure that the child is represented as early as possible;
- (e) to require that the Child and Family Services Review Board hear any requests for review within five days of an application.

Section 119 is amended to authorize peace officers to apprehend a child who has run away from a secure treatment program. The period of commitment is stayed while the child is absent from the secure treatment program.

**SECTION 18.** Subsection 125 (2) of the Act is amended to permit restraint during transportation of a child who has been admitted to a secure treatment program under Part VI of the Act.

**SECTION 19.** Clause 126 (2) (c) provides that a consent to the administration of a psychotropic drug shall identify the drug clearly and specify any risks and possible side effects associated with the drug and how they vary with different dosages. The amendment changes "any risks" to "the risks".

**SECTION 20.** Section 29 of the *Mental Health Act* sets out rules with regard to disclosure under a subpoena or other process of clinical records in a psychiatric facility. The new section 166a set out in this section adopts those rules for any record of a mental disorder in the possession of a service provider.

**SECTIONS 21 to 23.** These provisions amend the regulation making authority under the Act in light of the amendments already discussed. The provision that allows the regulations to prescribe drugs or combinations of drugs as psychotropic drugs is amended by subsection 18 (2) to allow classes of drugs to be so prescribed.



Bill 107

1988

**An Act to amend the  
Child and Family Services Act, 1984**

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

**1.—(1) Subsection 40 (2) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:**

(2) A justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker's sworn information that there are reasonable and probable grounds to believe that,

Warrant to  
apprehend  
child

- (a) the child is in need of protection; and
- (b) a less restrictive course of action is not available or will not protect the child adequately.

(2a) A justice of the peace shall not refuse to issue a warrant under subsection (2) by reason only that the child protection worker may bring the child to a place of safety under subsection (6).

Idem

(2) Subsection 40 (4) of the said Act is amended by adding at the end thereof "or to specify the premises where the child is located".

(3) Subsection 40 (5) of the said Act is amended by striking out "the" in the third line and inserting in lieu thereof "any".

(4) Clause 40 (6) (a) of the said Act is repealed and the following substituted therefor:

- (a) a child is in need of protection; and

. . . . .

**(5) Subsections 40 (10) to (17) of the said Act are repealed and the following substituted therefor:**

Right of entry, etc.

(10) A child protection worker who believes on reasonable and probable grounds that a child referred to in subsection (6) is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Regulations re power of entry

(11) A child protection worker authorized to enter premises under subsection (5) or (10) shall exercise the power of entry in accordance with the regulations.

Peace officer has powers of child protection worker

(12) Subsections (2), (5), (6), (9), (10) and (11) apply to a peace officer as if the peace officer were a child protection worker.

Protection from personal liability

(13) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or for an alleged neglect or default in the execution in good faith of that duty.

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

SPECIAL CASES OF APPREHENSION OF CHILDREN

Warrant to apprehend child in care

**40a.**—(1) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a peace officer's or child protection worker's sworn information that,

- (a) the child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there are reasonable and probable grounds to believe that there is no course of action available other than bringing the child to a place of safety that would adequately protect the child.

Idem

(2) A justice of the peace shall not refuse to issue a warrant to a person under subsection (1) by reason only that the person may bring the child to a place of safety under subsection (4).

No need to specify premises

(3) It is not necessary in a warrant under subsection (1) to specify the premises where the child is located.

(4) A peace officer or child protection worker who believes on reasonable and probable grounds that,

Apprehension of child in care without warrant

- (a) a child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there would be a substantial risk to the child's health or safety during the time necessary to obtain a warrant under subsection (1),

may without a warrant bring the child to a place of safety.

(5) Where a child is detained under this Part in a place of safety that has been designated as a place of open temporary detention as defined in Part IV (Young Offenders) and leaves the place without the consent of,

Apprehension of child absent from place of open temporary detention

- (a) the society having care, custody and control of the child; or
- (b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant.

(6) A person who apprehends a child under subsection (5) shall,

Idem

- (a) take the child to a place of safety to be detained until the child can be returned to the place of safety the child left; or
- (b) return the child or arrange for the child to be returned to the place of safety the child left.

**40b.**—(1) A peace officer who believes on reasonable and probable grounds that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and on doing so,

Apprehension of child under twelve

- (a) shall return the child to the child's parent or other person having charge of the child as soon as practicable; or

- (b) where it is not possible to return the child to the parent or other person within a reasonable time, shall take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to parent, etc.

(2) The person in charge of a place of safety in which a child is detained under subsection (1) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child not returned to parent, etc., within twelve hours

(3) Where a child detained in a place of safety under subsection (1) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (6) and not apprehended under subsection (1).

Definition

**40c.**—(1) In this section, “parent” includes,

- (a) a person, other than an individual, that has custody of the child;
- (b) a person who has care and control of the child.

Warrant to apprehend runaway child

(2) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to apprehend a child if the justice of the peace is satisfied on the basis of the sworn information of a parent of the child that,

- (a) the child is under the age of sixteen years;
- (b) the child has withdrawn from the parent's care and control without the parent's consent; and
- (c) the parent believes on reasonable and probable grounds that the child's health or safety may be at risk if the child is not apprehended.

Idem

(3) A person who apprehends a child under subsection (2) shall return the child to the child's parent as soon as practicable and where it is not possible to return the child to the parent within a reasonable time, take the child to a place of safety.

Notice to parent, etc.

(4) The person in charge of a place of safety to which a child is taken under subsection (3) shall make reasonable efforts to notify the child's parent that the child is in the place of safety so that the child may be returned to the parent.



(5) Where a child taken to a place of safety under subsection (3) cannot be returned to the child's parent within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (2) and not apprehended under subsection (2).

Where child not returned to parent within twelve hours

(6) A justice of the peace shall not issue a warrant under subsection (2) where a child has withdrawn from the care and control of one parent with the consent of another parent under circumstances where a proceeding under section 37 of the *Children's Law Reform Act* would be more appropriate.

Where custody enforcement proceedings more appropriate R.S.O. 1980, c. 68

(7) It is not necessary in a warrant under subsection (2) to specify the premises where the child is located.

No need to specify premises

(8) Where a peace officer or child protection worker believes on reasonable and probable grounds that a child apprehended under this section is in need of protection and there may be a substantial risk to the health or safety of the child if the child were returned to the parent,

Child protection proceedings

- (a) the peace officer or child protection worker may take the child to a place of safety under subsection 40 (6); or
- (b) where the child has been taken to a place of safety under subsection (5), the child shall be dealt with as if the child had been taken there under subsection 40 (6).

#### POWER OF ENTRY AND OTHER PROVISIONS FOR SPECIAL CASES OF APPREHENSION

**40d.**—(1) A person authorized to bring a child to a place of safety by a warrant issued under subsection 40a (1) or 40c (2) may at any time enter any premises specified in the warrant, by force, if necessary, and may search for and remove the child.

Authority to enter, etc.

(2) A person authorized under subsection 40a (4) or (5) or 40b (1) who believes on reasonable and probable grounds that a child referred to in the relevant subsection is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Right of entry, etc.

(3) A person authorized to enter premises under this section shall exercise the power of entry in accordance with the regulations.

Regulations re power of entry

Police  
assistance

(4) A child protection worker acting under section 40a or 40c may call for the assistance of a peace officer.

Consent to  
examine child

(5) A child protection worker who deals with a child under subsection 40b (3) or 40c (5) as if the child had been taken to a place of safety may authorize the child's medical examination where a parent's consent would otherwise be required.

Place of  
open  
temporary  
detention

(6) Where a person who brings a child to a place of safety under section 40a or 40b believes on reasonable and probable grounds that no less restrictive course of action is feasible, the child may be detained in a place of safety that is a place of open temporary detention as defined in Part IV (Young Offenders).

Protection  
from  
personal  
liability

(7) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or section 40a, 40b or 40c or for an alleged neglect or default in the execution in good faith of that duty.

**3. Subsection 42 (2) of the said Act is amended by striking out "under subsection 43 (1) (child protection hearing)" in the fourth and fifth lines.**

**4. Subsection 43 (1) of the said Act is amended by inserting after "40 (1)" in the second line "or a matter is brought before the court".**

**5. Section 48 of the said Act is amended by inserting after "40 (1)" in the first line "or a matter is brought before the court".**

**6. Subsections 75 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Allowing  
child to  
loiter, etc.

(5) No parent of a child less than sixteen years of age shall permit the child to,

- (a) loiter in a public place between the hours of midnight and 6 a.m.; or
- (b) be in a place of public entertainment between the hours of midnight and 6 a.m., unless the parent accompanies the child or authorizes a specified individual eighteen years of age or older to accompany the child.

Police may  
take child  
home or to  
place of  
safety

(6) Where a child who is actually or apparently less than sixteen years of age is in a place to which the public has access

between the hours of midnight and 6 a.m. and is not accompanied by a person described in clause (5) (b), a peace officer may apprehend the child without a warrant and proceed as if the child had been apprehended under subsection 40b (1).

**7. Clause 80 (b) of the said Act is repealed and the following substituted therefor:**

- (b) obstruct, interfere with or attempt to obstruct or interfere with a child protection worker or a peace officer who is acting under section 40, 40a, 40b, 40c or 40d.

**8. Subsection 89 (2) of the said Act is repealed and the following substituted therefor:**

(2) A provincial director may detain a young person in a place of secure temporary detention if the circumstances described in paragraph 1 or 2 apply to the young person and if the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention to ensure the young person's attendance in court or to protect the public interest or safety:

Where secure  
detention  
available

1. The young person is charged with an offence for which an adult would be liable to imprisonment for five years or more and,
  - i. the offence includes causing or attempting to cause serious bodily harm to another person,
  - ii. the young person has, at any time, failed to appear in court when required to do so under the federal Act or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or
  - iii. the young person has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more.

R.S.C. 1970,  
c. J-3

2. The young person is detained in a place of temporary detention and leaves or attempts to leave without the consent of the person in charge or is charged with having escaped or attempting to escape from lawful custody or being unlawfully at large under the *Criminal Code* (Canada).

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

**9.—(1) Subsections 94 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:**

Apprehension of young person absent from place of temporary detention  
R.S.O. 1980,  
c. 400

(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the federal Act or the *Provincial Offences Act* in a place of temporary detention has left the place without the consent of the person in charge and fails or refuses to return there may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of temporary detention.

Idem: place of open custody

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 91,

(a) has left the place without the consent of the person in charge and fails or refuses to return there; or

(b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 91 (b),

may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of open custody or a place of temporary detention.

Young person to be returned within forty-eight hours

(3) A young person who is apprehended under this section shall be returned to the place from which he or she is absent within forty-eight hours after being apprehended unless the provincial director detains the young person in secure temporary detention under paragraph 2 of subsection 89 (2).

**(2) Subsections 94 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Authority to enter, etc.

(5) Where a person authorized to apprehend a young person under subsection (1) or (2) believes on reasonable and probable grounds that a young person referred to in the relevant subsection is on any premises, the person may with or without a warrant enter the premises, by force, if necessary, and search for and remove the young person.

Regulations re exercise of power of entry

(6) A person authorized to enter premises under subsection (5) shall exercise the power of entry in accordance with the regulations.

**10.—(1) Paragraph 2 of subsection 110 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:**

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

**(2) Subsections 110 (2) and (3) of the said Act are repealed and the following substituted therefor:**

(2) Where an application is made under subsection (1), the court shall deal with the matter within ten days of the making of an order under subsection (5) (legal representation) or, where no such order is made, within ten days of the making of the application.

Time for hearing

**(3) Section 110 of the said Act is amended by adding thereto the following subsections:**

(4a) Where a hearing is adjourned, the court may make a temporary order for the child’s commitment to a secure treatment program if the court is satisfied that the child meets the criteria for commitment set out in clauses 113 (1) (a) to (f) and, where the child is less than twelve years old, the Minister consents to the child’s admission.

Interim order

(4b) For the purpose of subsection (4a), the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances.

Evidence on adjournments

**11. Subsection 111 (3) of the said Act is amended by striking out “a single 180 day” in the second line and inserting in lieu thereof “the”.**

**12. Subsection 112 (4) of the said Act is amended by adding thereto the following clause:**

- (da) a society that has custody of the child under an order made under Part III (Child Protection).

**13. Subsections 114 (1) and (2) of the said Act are repealed and the following substituted therefor:**

(1) The court shall specify in an order under subsection 113 (1) the period not exceeding 180 days for which the child shall be committed to the secure treatment program.

Period of commitment

Where  
society is  
applicant

(2) Where a child is committed to a secure treatment program on a society's application and the period specified in the court's order is greater than sixty days, the child shall be released on a day sixty days after the child's admission to the secure treatment program unless before that day,

- (a) the child's parent consents to the child's commitment for a longer period; or
- (b) the child is made a Crown or society ward under Part III (Child Protection),

but in no case shall the child be committed to the secure treatment program for longer than the period specified under subsection (1).

**14.—(1) Section 116 of the said Act is amended by adding thereto the following subsection:**

Idem

(1a) Where a person is kept in the secure treatment program under subsection 114 (4) after attaining the age of eighteen years,

- (a) the person, with the written consent of the administrator;
- (b) the person's parent, with the written consent of the person and the administrator;
- (c) a physician, with the written consent of the administrator; or
- (d) the administrator, with the written consent of the person,

may, before the expiry of the period of commitment, apply for one further order extending the person's commitment to the secure treatment program.

**(2) Subsection 116 (2) of the said Act is amended by inserting after "(1)" in the first line "or (1a)".**

**(3) Subsection 116 (3) of the said Act is amended by adding at the end thereof "or (1a)".**

**(4) Subsection 116 (5) of the said Act is repealed and the following substituted therefor:**

(5) The court shall specify in an order under subsection 116 (4) the period not exceeding 180 days for which the child shall be committed to the secure treatment program. Period of extension

**15. The said Act is further amended by adding thereto the following sections:**

REVIEW OF COMMITMENT

**117a.**—(1) Any one of the following persons may apply to the court for an order terminating an order made under subsection 113 (1) (commitment) or 116 (4) (extension): Review of commitment

1. The child, where the child is twelve years of age or more.
2. The child's parent.
3. The society having care, custody or supervision of the child.

(2) Subsections 110 (4), (5), (6), (7) and (8) (hearing) and sections 111 (child's waiver) and 112 (assessment) apply with necessary modifications to an application made under subsection (1). ss. 110 (4-8), 111, 112 apply

(3) The court shall make an order terminating a child's commitment unless the court is satisfied that, Termination of order

- (a) the child has a mental disorder;
- (b) the secure treatment program would continue to be effective to prevent the child from causing or attempting to cause serious bodily harm to himself, herself or another person;
- (c) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances; and
- (d) the child is receiving the treatment proposed at the time of the most recent order under subsection 113 (1) or 116 (4), or other appropriate treatment.

(4) In making an order under subsection (3), the court shall consider whether there is an appropriate plan for the child's care on release from the secure treatment program. Idem

**117b.** Subsections 116 (2), (3), (4) and (5) and sections 117 and 117a apply with necessary modifications to a person ss. 116 (2-5), 117, 117a apply

who is eighteen years of age or older and committed to a secure treatment program as if the person were a child.

**16.—(1) Paragraph 2 of subsection 118 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:**

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

**(2) Subsection 118 (2) of the said Act is amended by inserting after “subsection (1)” in the second line “for a period not to exceed thirty days”.**

**(3) Clause 118 (2) (b) of the said Act is repealed and the following substituted therefor:**

- (b) the child has, as a result of the mental disorder, caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself, herself or another person.

**(4) Subsection 118 (6) of the said Act is repealed and the following substituted therefor:**

Notices required

(6) The administrator shall ensure that within twenty-four hours after a child is admitted to a secure treatment program under subsection (2),

- (a) the child is given written notice of his or her right to a review under subsection (9); and
- (b) the Office of Child and Family Service Advocacy and the Official Guardian are given notice of the child’s admission.

Mandatory advice

(7) The Office of Child and Family Service Advocacy shall ensure that forthwith after the notice is received a person who is not employed by the secure treatment facility explains to the child his or her right to a review in language suitable for the child’s level of understanding.

Official Guardian to ensure child represented

(8) The Official Guardian shall represent the child at the earliest possible opportunity and in any event within five days after receiving a notice under subsection (6) unless the Official



Guardian is satisfied that another person will provide legal representation for the child within that time.

(9) Where a child is admitted to a secure treatment program under this section, any person, including the child, may apply to the Board for an order releasing the child from the secure treatment program.

Application for review

(10) Where an application is made under subsection (9), the child may be kept in the secure treatment program until the application is disposed of.

Child may be kept in program while application pending

(11) Subsections 110 (6), (7) and (8) (hearing) and section 111 (waive oral evidence) apply with necessary modifications to an application made under subsection (9).

Procedure

(12) Where an application is made under subsection (9), the Board shall dispose of the matter within five days of the making of the application.

Time for review

(13) The Board shall make an order releasing the child from the secure treatment program unless the Board is satisfied that the child meets the criteria for emergency admission set out in clauses 118 (2) (a) to (e).

Order

**17. Section 119 of the said Act is amended by adding thereto the following subsections:**

(2) Where a child who has been admitted to a secure treatment program leaves the facility in which the secure treatment program is located without the consent of the administrator, a peace officer may apprehend the child with or without a warrant and return the child to the facility.

Apprehension of child who leaves

(3) Where a child is returned to a facility under subsection (2), the time that the child was absent from the facility shall not be taken into account in calculating the period of commitment.

Period of commitment

**18. Subsection 125 (2) of the said Act is amended by inserting after "child" in the third line "who has been admitted to a secure treatment program under this Part".**

**19. Clause 126 (2) (c) of the said Act is amended by striking out "any" in the first line and inserting in lieu thereof "the".**

**20. The said Act is further amended by adding thereto the following section:**

Definition

**166a.**—(1) In this section, “record of a mental disorder” means a record or a part of a record made about a person concerning a substantial disorder of emotional processes, thought or cognition of the person which grossly impairs the person’s capacity to make reasoned judgments.

Disclosure pursuant to subpoena

(2) A service provider shall disclose, transmit or permit the examination of a record of a mental disorder pursuant to a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act unless a physician states in writing that he or she believes that to do so,

(a) is likely to result in harm to the treatment or recovery of the person to whom the record relates; or

(b) is likely to result in,

(i) injury to the mental condition of another person, or

(ii) bodily harm to another person.

Hearing to be held

(3) The court before which a matter described in subsection (2) is in issue on motion or, where a disclosure, transmittal or examination is not required by a court, the Divisional Court on motion shall determine whether the record referred to in the physician’s statement should be disclosed, transmitted or examined.

Idem

(4) A motion under subsection (3) shall be on notice to the physician and shall be held in the absence of the public.

Consideration of court

(5) In a motion under subsection (3), the court shall consider whether or not the disclosure, transmittal or examination of the record referred to in the physician’s statement is likely to have a result described in clause (2) (a) or (b) and for the purpose the court may examine the record.

Order of court

(6) The court shall not order that the record referred to in the physician’s statement be disclosed, transmitted or examined if the court is satisfied that a result described in clause (2) (a) or (b) is likely unless satisfied that to do so is essential in the interests of justice.

Return of record to service provider

(7) Where a record of a mental disorder is required under this section, the clerk of the court or body in which it is admitted in evidence or, if not so admitted, the person to whom the record is transmitted shall return the record to the service pro-

vider forthwith after the determination of the matter in issue in respect of which the record was required.

**21.** Clause 199 (a) of the said Act is amended by striking out “(14)” in the second line and inserting in lieu thereof “(10) and section 40d”.

**22.** Clause 200 (1) (m) of the said Act is amended by striking out “by a warrant issued under subsection 94 (4)” in the second line and inserting in lieu thereof “under subsection 94 (5)”.

**23.—(1)** Clause 202 (a) of the said Act is amended by striking out “children” in the first line and inserting in lieu thereof “persons”.

**(2)** Clause 202 (i) of the said Act is amended by striking out “or combinations of drugs” in the first line and inserting in lieu thereof “combinations of drugs or classes of drugs”.

**24.** A child who is a patient in a psychiatric facility under a certificate of involuntary admission under the *Mental Health Act* on the day this section comes into force and who is in premises where a secure treatment program has been established or approved shall be deemed to have been committed to the secure treatment program under section 113 for a period that ends when the certificate expires.

Transition  
R.S.O. 1980,  
c. 262

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

Commence-  
ment

**26.** The short title of this Act is the *Child and Family Services Amendment Act, 1988*.

Short title



# Bill 107

## **An Act to amend the Child and Family Services Act, 1984**

The Hon. J. Sweeney  
*Minister of Community and Social Services*

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*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the Social Development Committee)*

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## EXPLANATORY NOTES

**SECTIONS 1 and 2.** The new subsection 40 (2a) provides that justices of the peace should not refuse to issue a warrant to apprehend a child simply because the Act provides for apprehension without a warrant.

It is provided that warrants for apprehending children need not specify the premises where the child is located.

The provisions concerning apprehension of children who are runaway wards of a society are removed from section 40 and incorporated into the new section 40a. The purpose of the removal is to provide that on apprehension of runaway wards there does not have to be a new hearing to find them in need of protection. The present subsection 40 (10), dealing with apprehension of children under twelve who have committed an offence, becomes the new section 40b.

The new section 40c deals with runaway children. It authorizes a justice of the peace to issue a warrant for the apprehension of a child on the basis of the sworn information of the child's parent (a defined term) that the child has withdrawn from the parent's care and control without consent and that the parent believes that the child's health or safety may be at risk if the child is not apprehended. A child apprehended under this section would be returned to the parent unless the parent is not available or the child appears to be in need of protection.

Sections 40d and 40e extend the application of provisions now in section 40 concerning right of entry and protection from personal liability to sections 40a and 40c.

**SECTION 3.** Subsection 42 (2) is amended as a result of amendments in sections 1 and 2.

**SECTIONS 4, 5 and 6.** Housekeeping.

**SECTION 7.** Subsection 75 (5) prohibits a person having charge of a child from allowing the child to loiter in a public place or be unaccompanied in a place of public entertainment between midnight and 6 a.m. Subsection 75 (6) authorizes the apprehension of a child who is doing one of these things. The subsections are amended to put the prohibition on the parent rather than on the person in charge of the child and to require that any child out at that time of night is with the parent or an adult specifically authorized by the parent.

**SECTION 8.** The offence provision is amended as a result of the amendments in sections 1 and 2 of the Bill.

**SECTION 9.** Subsection 89 (2) sets out the circumstances under which the Provincial Director may detain a young person in a place of secure temporary detention to ensure the young person's attendance in court or to protect the public interest or safety. It is expanded to allow the Provincial Director to so detain a young person who leaves or attempts to leave a place of temporary detention without consent or who is charged with having escaped or attempting to escape from lawful custody or being unlawfully at large under the *Criminal Code*.

**SECTION 10.** This section authorizes the apprehension of young persons who are absent from custody without permission. It is amended to correspond to the amendments in section 7 of the Bill, above, and to give greater flexibility in deciding where to take such a young person, once apprehended.

The power to enter premises by force if necessary to search for and remove a young person who is absent from custody under section 94 is extended to apply to entry without a warrant.

**SECTIONS 11 to 18.** The provisions dealing with orders for commitment to a secure treatment program (sections 110-117) are amended,

- (a) to permit orders to be made for any period up to 180 days (the Act now provides for orders for the full 180 days);
- (b) to permit one extension of an order after a child's eighteenth birthday;
- (c) to permit a parent, society or child twelve years of age or older to apply for review of commitment to a secure treatment program;
- (d) to permit a society that has custody of a child to receive a copy of an assessment report done in respect of an application for commitment.

The provision dealing with emergency commitment to a secure treatment program (section 118) is amended,

- (a) to allow the administrator to admit a child for a period of up to thirty days without court authorization;
- (b) to modify the criteria for emergency commitment;
- (c) to require the administrator within twenty-four hours of the child's admission to notify a child who is admitted of his or her right to a review and to notify the Office of Child and Family Service Advocacy and the Official Guardian of the child's admission;
- (d) to require the Office of Child and Family Service Advocacy to ensure that the child receives an explanation of his or her rights forthwith and to require the Official Guardian to ensure that the child is represented as early as possible;
- (e) to require that the Child and Family Services Review Board hear any requests for review within five days of an application.

Section 119 is amended to authorize peace officers to apprehend a child who has run away from a secure treatment program. The period of commitment is stayed while the child is absent from the secure treatment program.

**SECTION 19.** Subsection 125 (2) of the Act is amended to permit restraint during transportation of a child who has been admitted to a secure treatment program under Part VI of the Act.

**SECTION 20.** Clause 126 (2) (c) provides that a consent to the administration of a psychotropic drug shall identify the drug clearly and specify any risks and possible side effects associated with the drug and how they vary with different dosages. The amendment changes "any risks" to "the risks".

**SECTION 21.** Section 29 of the *Mental Health Act* sets out rules with regard to disclosure under a subpoena or other process of clinical records in a psychiatric facility. The new section 166a set out in this section adopts those rules for any record of a mental disorder in the possession of a service provider.

**SECTIONS 22 to 24.** These provisions amend the regulation making authority under the Act in light of the amendments already discussed. The provision that allows the regulations to prescribe drugs or combinations of drugs as psychotropic drugs is amended by subsection 24 (2) to allow classes of drugs to be so prescribed.





Bill 107

1988

**An Act to amend the  
Child and Family Services Act, 1984**

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

**1.—(1) Subsection 40 (2) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:**

(2) A justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker's sworn information that there are reasonable and probable grounds to believe that,

Warrant to  
apprehend  
child

- (a) the child is in need of protection; and
- (b) a less restrictive course of action is not available or will not protect the child adequately.

(2a) A justice of the peace shall not refuse to issue a warrant under subsection (2) by reason only that the child protection worker may bring the child to a place of safety under subsection (6).

Idem

(2) Subsection 40 (4) of the said Act is amended by adding at the end thereof "or to specify the premises where the child is located".

(3) Subsection 40 (5) of the said Act is amended by striking out "the" in the third line and inserting in lieu thereof "any".

(4) Clause 40 (6) (a) of the said Act is repealed and the following substituted therefor:

- (a) a child is in need of protection; and

. . . . .

**(5) Subsections 40 (10) to (17) of the said Act are repealed and the following substituted therefor:**

Right of entry, etc.

(10) A child protection worker who believes on reasonable and probable grounds that a child referred to in subsection (6) is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Regulations re power of entry

(11) A child protection worker authorized to enter premises under subsection (5) or (10) shall exercise the power of entry in accordance with the regulations.

Peace officer has powers of child protection worker

(12) Subsections (2), (5), (6), (9), (10) and (11) apply to a peace officer as if the peace officer were a child protection worker.

Protection from personal liability

(13) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or for an alleged neglect or default in the execution in good faith of that duty.

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

SPECIAL CASES OF APPREHENSION OF CHILDREN

Warrant to apprehend child in care

**40a.**—(1) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a peace officer's or child protection worker's sworn information that,

- (a) the child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there are reasonable and probable grounds to believe that there is no course of action available other than bringing the child to a place of safety that would adequately protect the child.

Idem

(2) A justice of the peace shall not refuse to issue a warrant to a person under subsection (1) by reason only that the person may bring the child to a place of safety under subsection (4).

No need to specify premises

(3) It is not necessary in a warrant under subsection (1) to specify the premises where the child is located.

(4) A peace officer or child protection worker who believes on reasonable and probable grounds that,

Apprehension of child in care without warrant

- (a) a child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there would be a substantial risk to the child's health or safety during the time necessary to obtain a warrant under subsection (1),

may without a warrant bring the child to a place of safety.

(5) Where a child is detained under this Part in a place of safety that has been designated as a place of open temporary detention as defined in Part IV (Young Offenders) and leaves the place without the consent of,

Apprehension of child absent from place of open temporary detention

- (a) the society having care, custody and control of the child; or
- (b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant.

(6) A person who apprehends a child under subsection (5) shall,

Idem

- (a) take the child to a place of safety to be detained until the child can be returned to the place of safety the child left; or
- (b) return the child or arrange for the child to be returned to the place of safety the child left.

**40b.**—(1) A peace officer who believes on reasonable and probable grounds that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and on doing so,

Apprehension of child under twelve

- (a) shall return the child to the child's parent or other person having charge of the child as soon as practicable; or

- (b) where it is not possible to return the child to the parent or other person within a reasonable time, shall take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to parent, etc.

(2) The person in charge of a place of safety in which a child is detained under subsection (1) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child not returned to parent, etc., within twelve hours

(3) Where a child detained in a place of safety under subsection (1) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (6) and not apprehended under subsection (1).

Definition

**40c.**—(1) In this section, “parent” includes,

- (a) an approved agency that has custody of the child;
- (b) a person who has care and control of the child.

Warrant to apprehend runaway child

(2) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to apprehend a child if the justice of the peace is satisfied on the basis of the sworn information of a parent of the child that,

- (a) the child is under the age of sixteen years;
- (b) the child has withdrawn from the parent's care and control without the parent's consent; and
- (c) the parent believes on reasonable and probable grounds that the child's health or safety may be at risk if the child is not apprehended.

Idem

(3) A person who apprehends a child under subsection (2) shall return the child to the child's parent as soon as practicable and where it is not possible to return the child to the parent within a reasonable time, take the child to a place of safety.

Notice to parent, etc.

(4) The person in charge of a place of safety to which a child is taken under subsection (3) shall make reasonable efforts to notify the child's parent that the child is in the place of safety so that the child may be returned to the parent.

(5) Where a child taken to a place of safety under subsection (3) cannot be returned to the child's parent within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (2) and not apprehended under subsection (2).

Where child not returned to parent within twelve hours

(6) A justice of the peace shall not issue a warrant under subsection (2) where a child has withdrawn from the care and control of one parent with the consent of another parent under circumstances where a proceeding under section 37 of the *Children's Law Reform Act* would be more appropriate.

Where custody enforcement proceedings more appropriate R.S.O. 1980, c. 68

(7) It is not necessary in a warrant under subsection (2) to specify the premises where the child is located.

No need to specify premises

(8) Where a peace officer or child protection worker believes on reasonable and probable grounds that a child apprehended under this section is in need of protection and there may be a substantial risk to the health or safety of the child if the child were returned to the parent,

Child protection proceedings

- (a) the peace officer or child protection worker may take the child to a place of safety under subsection 40 (6); or
- (b) where the child has been taken to a place of safety under subsection (5), the child shall be dealt with as if the child had been taken there under subsection 40 (6).

#### POWER OF ENTRY AND OTHER PROVISIONS FOR SPECIAL CASES OF APPREHENSION

**40d.**—(1) A person authorized to bring a child to a place of safety by a warrant issued under subsection 40a (1) or 40c (2) may at any time enter any premises specified in the warrant, by force, if necessary, and may search for and remove the child.

Authority to enter, etc.

(2) A person authorized under subsection 40a (4) or (5) or 40b (1) who believes on reasonable and probable grounds that a child referred to in the relevant subsection is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Right of entry, etc.

(3) A person authorized to enter premises under this section shall exercise the power of entry in accordance with the regulations.

Regulations re power of entry

Police  
assistance

(4) A child protection worker acting under section 40a or 40c may call for the assistance of a peace officer.

Consent to  
examine child

(5) A child protection worker who deals with a child under subsection 40b (3) or 40c (5) as if the child had been taken to a place of safety may authorize the child's medical examination where a parent's consent would otherwise be required.

Place of  
open  
temporary  
detention

(6) Where a person who brings a child to a place of safety under section 40a or 40b believes on reasonable and probable grounds that no less restrictive course of action is feasible, the child may be detained in a place of safety that is a place of open temporary detention as defined in Part IV (Young Offenders).

Protection  
from  
personal  
liability

(7) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or section 40a, 40b or 40c or for an alleged neglect or default in the execution in good faith of that duty.

**3. Subsection 42 (2) of the said Act is amended by striking out "under subsection 43 (1) (child protection hearing)" in the fourth and fifth lines.**

**4. Subsection 43 (1) of the said Act is amended by inserting after "40 (1)" in the second line "or a matter is brought before the court".**

**5. Section 48 of the said Act is amended by inserting after "40 (1)" in the first line "or a matter is brought before the court".**

**6. Subsection 74 (2) of the said Act is amended by inserting after "40" in the second line "or 40d".**

**7. Subsections 75 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Allowing  
child to  
loiter, etc.

(5) No parent of a child less than sixteen years of age shall permit the child to,

- (a) loiter in a public place between the hours of midnight and 6 a.m.; or
- (b) be in a place of public entertainment between the hours of midnight and 6 a.m., unless the parent accompanies the child or authorizes a specified individual eighteen years of age or older to accompany the child.

(6) Where a child who is actually or apparently less than sixteen years of age is in a place to which the public has access between the hours of midnight and 6 a.m. and is not accompanied by a person described in clause (5) (b), a peace officer may apprehend the child without a warrant and proceed as if the child had been apprehended under subsection 40b (1).

Police may take child home or to place of safety

**8. Clause 80 (b) of the said Act is repealed and the following substituted therefor:**

- (b) obstruct, interfere with or attempt to obstruct or interfere with a child protection worker or a peace officer who is acting under section 40, 40a, 40b, 40c or 40d.

**9. Subsection 89 (2) of the said Act is repealed and the following substituted therefor:**

(2) A provincial director may detain a young person in a place of secure temporary detention if the circumstances described in paragraph 1 or 2 apply to the young person and if the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention to ensure the young person's attendance in court or to protect the public interest or safety:

Where secure detention available

1. The young person is charged with an offence for which an adult would be liable to imprisonment for five years or more and,
  - i. the offence includes causing or attempting to cause serious bodily harm to another person,
  - ii. the young person has, at any time, failed to appear in court when required to do so under the federal Act or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or
  - iii. the young person has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more.
2. The young person is detained in a place of temporary detention and leaves or attempts to leave without the consent of the person in charge or is charged with having escaped or attempting to

R.S.C. 1970, c. J-3

escape from lawful custody or being unlawfully at large under the *Criminal Code* (Canada).

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

**10.—(1) Subsections 94 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:**

Apprehension of young person absent from place of temporary detention  
R.S.O. 1980,  
c. 400

(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the federal Act or the *Provincial Offences Act* in a place of temporary detention has left the place without the consent of the person in charge and fails or refuses to return there may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of temporary detention.

Idem: place of open custody

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 91,

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 91 (b),

may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of open custody or a place of temporary detention.

Young person to be returned within forty-eight hours

(3) A young person who is apprehended under this section shall be returned to the place from which he or she is absent within forty-eight hours after being apprehended unless the provincial director detains the young person in secure temporary detention under paragraph 2 of subsection 89 (2).

**(2) Subsections 94 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Authority to enter, etc.

(5) Where a person authorized to apprehend a young person under subsection (1) or (2) believes on reasonable and probable grounds that a young person referred to in the relevant subsection is on any premises, the person may with or without a warrant enter the premises, by force, if necessary, and search for and remove the young person.



(6) A person authorized to enter premises under subsection (5) shall exercise the power of entry in accordance with the regulations.

Regulations re exercise of power of entry

**11.—(1) Paragraph 2 of subsection 110 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:**

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application,  
or

**(2) Subsections 110 (2) and (3) of the said Act are repealed and the following substituted therefor:**

(2) Where an application is made under subsection (1), the court shall deal with the matter within ten days of the making of an order under subsection (5) (legal representation) or, where no such order is made, within ten days of the making of the application.

Time for hearing

**(3) Section 110 of the said Act is amended by adding thereto the following subsections:**

(4a) Where a hearing is adjourned, the court may make a temporary order for the child's commitment to a secure treatment program if the court is satisfied that the child meets the criteria for commitment set out in clauses 113 (1) (a) to (f) and, where the child is less than twelve years old, the Minister consents to the child's admission.

Interim order

(4b) For the purpose of subsection (4a), the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances.

Evidence on adjournments

**12. Subsection 111 (3) of the said Act is amended by striking out “a single 180 day” in the second line and inserting in lieu thereof “the”.**

**13. Subsection 112 (4) of the said Act is amended by adding thereto the following clause:**

- (da) a society that has custody of the child under an order made under Part III (Child Protection).

**14. Subsections 114 (1) and (2) of the said Act are repealed and the following substituted therefor:**

Period of  
commitment

(1) The court shall specify in an order under subsection 113 (1) the period not exceeding 180 days for which the child shall be committed to the secure treatment program.

Where  
society is  
applicant

(2) Where a child is committed to a secure treatment program on a society's application and the period specified in the court's order is greater than sixty days, the child shall be released on a day sixty days after the child's admission to the secure treatment program unless before that day,

- (a) the child's parent consents to the child's commitment for a longer period; or
- (b) the child is made a Crown or society ward under Part III (Child Protection),

but in no case shall the child be committed to the secure treatment program for longer than the period specified under subsection (1).

**15.—(1) Section 116 of the said Act is amended by adding thereto the following subsection:**

Idem

(1a) Where a person is kept in the secure treatment program under subsection 114 (4) after attaining the age of eighteen years,

- (a) the person, with the written consent of the administrator;
- (b) the person's parent, with the written consent of the person and the administrator;
- (c) a physician, with the written consent of the administrator and the person; or
- (d) the administrator, with the written consent of the person,

may, before the expiry of the period of commitment, apply for one further order extending the person's commitment to the secure treatment program.

**(2) Subsection 116 (2) of the said Act is amended by inserting after "(1)" in the first line "or (1a)".**

**(3) Subsection 116 (3) of the said Act is amended by adding at the end thereof "or (1a)".**

**(4) Subsection 116 (5) of the said Act is repealed and the following substituted therefor:**

(5) The court shall specify in an order under subsection 116 (4) the period not exceeding 180 days for which the child shall be committed to the secure treatment program. Period of extension

**16. The said Act is further amended by adding thereto the following sections:**

REVIEW OF COMMITMENT

**117a.**—(1) Any one of the following persons may apply to the court for an order terminating an order made under subsection 113 (1) (commitment) or 116 (4) (extension): Review of commitment

1. The child, where the child is twelve years of age or more.
2. The child's parent.
3. The society having care, custody or supervision of the child.

(2) Subsections 110 (4), (5), (6), (7) and (8) (hearing) and sections 111 (child's waiver) and 112 (assessment) apply with necessary modifications to an application made under subsection (1). ss. 110 (4-8), 111, 112 apply

(3) The court shall make an order terminating a child's commitment unless the court is satisfied that, Termination of order

- (a) the child has a mental disorder;
- (b) the secure treatment program would continue to be effective to prevent the child from causing or attempting to cause serious bodily harm to himself, herself or another person;
- (c) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances; and
- (d) the child is receiving the treatment proposed at the time of the most recent order under subsection 113 (1) or 116 (4), or other appropriate treatment.

(4) In making an order under subsection (3), the court shall consider whether there is an appropriate plan for the child's care on release from the secure treatment program. Idem

ss. 116 (2-5),  
117, 117a  
apply

**117b.** Subsections 116 (2), (3), (4) and (5) and sections 117 and 117a apply with necessary modifications to a person who is eighteen years of age or older and committed to a secure treatment program as if the person were a child.

**17.—(1) Paragraph 2 of subsection 118 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:**

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

**(2) Subsection 118 (2) of the said Act is amended by inserting after “subsection (1)” in the second line “for a period not to exceed thirty days”.**

**(3) Clause 118 (2) (b) of the said Act is repealed and the following substituted therefor:**

- (b) the child has, as a result of the mental disorder, caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself, herself or another person.

**(4) Subsection 118 (6) of the said Act is repealed and the following substituted therefor:**

Notices  
required

(6) The administrator shall ensure that within twenty-four hours after a child is admitted to a secure treatment program under subsection (2),

- (a) the child is given written notice of his or her right to a review under subsection (9); and
- (b) the Office of Child and Family Service Advocacy and the Official Guardian are given notice of the child’s admission.

Mandatory  
advice

(7) The Office of Child and Family Service Advocacy shall ensure that forthwith after the notice is received a person who is not employed by the secure treatment facility explains to the child his or her right to a review in language suitable for the child’s level of understanding.

Official  
Guardian to  
ensure child  
represented

(8) The Official Guardian shall represent the child at the earliest possible opportunity and in any event within five days

after receiving a notice under subsection (6) unless the Official Guardian is satisfied that another person will provide legal representation for the child within that time.

(9) Where a child is admitted to a secure treatment program under this section, any person, including the child, may apply to the Board for an order releasing the child from the secure treatment program.

Application  
for review

(10) Where an application is made under subsection (9), the child may be kept in the secure treatment program until the application is disposed of.

Child may be  
kept in  
program  
while  
application  
pending  
Procedure

(11) Subsections 110 (6), (7) and (8) (hearing) and section 111 (waive oral evidence) apply with necessary modifications to an application made under subsection (9).

(12) Where an application is made under subsection (9), the Board shall dispose of the matter within five days of the making of the application.

Time for  
review

(13) The Board shall make an order releasing the child from the secure treatment program unless the Board is satisfied that the child meets the criteria for emergency admission set out in clauses 118 (2) (a) to (e).

Order

**18. Section 119 of the said Act is amended by adding thereto the following subsections:**

(2) Where a child who has been admitted to a secure treatment program leaves the facility in which the secure treatment program is located without the consent of the administrator, a peace officer may apprehend the child with or without a warrant and return the child to the facility.

Apprehen-  
sion of child  
who leaves

(3) Where a child is returned to a facility under subsection (2), the time that the child was absent from the facility shall not be taken into account in calculating the period of commitment.

Period of  
commitment

**19. Subsection 125 (2) of the said Act is amended by inserting after "child" in the third line "who has been admitted to a secure treatment program under this Part".**

**20. Clause 126 (2) (c) of the said Act is amended by striking out "any" in the first line and inserting in lieu thereof "the".**

**21. The said Act is further amended by adding thereto the following section:**

Definition

**166a.**—(1) In this section, “record of a mental disorder” means a record or a part of a record made about a person concerning a substantial disorder of emotional processes, thought or cognition of the person which grossly impairs the person’s capacity to make reasoned judgments.

Disclosure pursuant to subpoena

(2) A service provider shall disclose, transmit or permit the examination of a record of a mental disorder pursuant to a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act unless a physician states in writing that he or she believes that to do so,

(a) is likely to result in harm to the treatment or recovery of the person to whom the record relates; or

(b) is likely to result in,

(i) injury to the mental condition of another person, or

(ii) bodily harm to another person.

Hearing to be held

(3) The court before which a matter described in subsection (2) is in issue on motion or, where a disclosure, transmittal or examination is not required by a court, the Divisional Court on motion shall determine whether the record referred to in the physician’s statement should be disclosed, transmitted or examined.

Idem

(4) A motion under subsection (3) shall be on notice to the physician and shall be held in the absence of the public.

Consideration of court

(5) In a motion under subsection (3), the court shall consider whether or not the disclosure, transmittal or examination of the record referred to in the physician’s statement is likely to have a result described in clause (2) (a) or (b) and for the purpose the court may examine the record.

Order of court

(6) The court shall not order that the record referred to in the physician’s statement be disclosed, transmitted or examined if the court is satisfied that a result described in clause (2) (a) or (b) is likely unless satisfied that to do so is essential in the interests of justice.

(7) Where a record of a mental disorder is required under this section, the clerk of the court or body in which it is admitted in evidence or, if not so admitted, the person to whom the record is transmitted shall return the record to the service provider forthwith after the determination of the matter in issue in respect of which the record was required.

Return of  
record to  
service  
provider

**22.—(1)** Clause 199 (a) of the said Act is amended by striking out “(14)” in the second line and inserting in lieu thereof “(10) and section 40d”.

(2) Section 199 of the said Act is amended by adding thereto the following clause:

(h) prescribing forms and providing for their use. ▲

**23.** Clause 200 (1) (m) of the said Act is amended by striking out “by a warrant issued under subsection 94 (4)” in the second line and inserting in lieu thereof “under subsection 94 (5)”.

**24.—(1)** Clause 202 (a) of the said Act is amended by striking out “children” in the first line and inserting in lieu thereof “persons”.

(2) Clause 202 (i) of the said Act is amended by striking out “or combinations of drugs” in the first line and inserting in lieu thereof “combinations of drugs or classes of drugs”.

**25.** A child who is a patient in a psychiatric facility under a certificate of involuntary admission under the *Mental Health Act* on the day this section comes into force and who is in premises where a secure treatment program has been established or approved shall be deemed to have been committed to the secure treatment program under section 113 for a period that ends when the certificate expires.

Transition  
R.S.O. 1980,  
c. 262

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

Commence-  
ment

**27.** The short title of this Act is the *Child and Family Services Amendment Act, 1988*.

Short title





# Bill 107

*(Chapter 36  
Statutes of Ontario, 1988)*

## **An Act to amend the Child and Family Services Act, 1984**

The Hon. J. Sweeney  
*Minister of Community and Social Services*

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<i>1st Reading</i>	April 7th, 1988
<i>2nd Reading</i>	May 24th, 1988
<i>3rd Reading</i>	June 22nd, 1988
<i>Royal Assent</i>	June 22nd, 1988

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Bill 107

1988

**An Act to amend the  
Child and Family Services Act, 1984**

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

**1.—(1)** Subsection 40 (2) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:

(2) A justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker's sworn information that there are reasonable and probable grounds to believe that,

Warrant to  
apprehend  
child

- (a) the child is in need of protection; and
- (b) a less restrictive course of action is not available or will not protect the child adequately.

(2a) A justice of the peace shall not refuse to issue a warrant under subsection (2) by reason only that the child protection worker may bring the child to a place of safety under subsection (6).

Idem

(2) Subsection 40 (4) of the said Act is amended by adding at the end thereof "or to specify the premises where the child is located".

(3) Subsection 40 (5) of the said Act is amended by striking out "the" in the third line and inserting in lieu thereof "any".

(4) Clause 40 (6) (a) of the said Act is repealed and the following substituted therefor:

- (a) a child is in need of protection; and

**(5) Subsections 40 (10) to (17) of the said Act are repealed and the following substituted therefor:**

Right of entry, etc.

(10) A child protection worker who believes on reasonable and probable grounds that a child referred to in subsection (6) is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Regulations re power of entry

(11) A child protection worker authorized to enter premises under subsection (5) or (10) shall exercise the power of entry in accordance with the regulations.

Peace officer has powers of child protection worker

(12) Subsections (2), (5), (6), (9), (10) and (11) apply to a peace officer as if the peace officer were a child protection worker.

Protection from personal liability

(13) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or for an alleged neglect or default in the execution in good faith of that duty.

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

SPECIAL CASES OF APPREHENSION OF CHILDREN

Warrant to apprehend child in care

**40a.**—(1) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a peace officer's or child protection worker's sworn information that,

- (a) the child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there are reasonable and probable grounds to believe that there is no course of action available other than bringing the child to a place of safety that would adequately protect the child.

Idem

(2) A justice of the peace shall not refuse to issue a warrant to a person under subsection (1) by reason only that the person may bring the child to a place of safety under subsection (4).

No need to specify premises

(3) It is not necessary in a warrant under subsection (1) to specify the premises where the child is located.

(4) A peace officer or child protection worker who believes on reasonable and probable grounds that,

Apprehension of child in care without warrant

- (a) a child is actually or apparently under the age of sixteen years and has left or been removed from a society's lawful care and custody without its consent; and
- (b) there would be a substantial risk to the child's health or safety during the time necessary to obtain a warrant under subsection (1),

may without a warrant bring the child to a place of safety.

(5) Where a child is detained under this Part in a place of safety that has been designated as a place of open temporary detention as defined in Part IV (Young Offenders) and leaves the place without the consent of,

Apprehension of child absent from place of open temporary detention

- (a) the society having care, custody and control of the child; or
- (b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant.

(6) A person who apprehends a child under subsection (5) shall,

Idem

- (a) take the child to a place of safety to be detained until the child can be returned to the place of safety the child left; or
- (b) return the child or arrange for the child to be returned to the place of safety the child left.

**40b.**—(1) A peace officer who believes on reasonable and probable grounds that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and on doing so,

Apprehension of child under twelve

- (a) shall return the child to the child's parent or other person having charge of the child as soon as practicable; or

- (b) where it is not possible to return the child to the parent or other person within a reasonable time, shall take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to parent, etc.

(2) The person in charge of a place of safety in which a child is detained under subsection (1) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child not returned to parent, etc., within twelve hours

(3) Where a child detained in a place of safety under subsection (1) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (6) and not apprehended under subsection (1).

Definition

**40c.**—(1) In this section, "parent" includes,

- (a) an approved agency that has custody of the child;
- (b) a person who has care and control of the child.

Warrant to apprehend runaway child

(2) A justice of the peace may issue a warrant authorizing a peace officer or child protection worker to apprehend a child if the justice of the peace is satisfied on the basis of the sworn information of a parent of the child that,

- (a) the child is under the age of sixteen years;
- (b) the child has withdrawn from the parent's care and control without the parent's consent; and
- (c) the parent believes on reasonable and probable grounds that the child's health or safety may be at risk if the child is not apprehended.

Idem

(3) A person who apprehends a child under subsection (2) shall return the child to the child's parent as soon as practicable and where it is not possible to return the child to the parent within a reasonable time, take the child to a place of safety.

Notice to parent, etc.

(4) The person in charge of a place of safety to which a child is taken under subsection (3) shall make reasonable efforts to notify the child's parent that the child is in the place of safety so that the child may be returned to the parent.

(5) Where a child taken to a place of safety under subsection (3) cannot be returned to the child's parent within twelve hours of being taken to the place of safety, the child shall be dealt with as if the child had been taken to a place of safety under subsection 40 (2) and not apprehended under subsection (2).

Where child not returned to parent within twelve hours

(6) A justice of the peace shall not issue a warrant under subsection (2) where a child has withdrawn from the care and control of one parent with the consent of another parent under circumstances where a proceeding under section 37 of the *Children's Law Reform Act* would be more appropriate.

Where custody enforcement proceedings more appropriate R.S.O. 1980, c. 68

(7) It is not necessary in a warrant under subsection (2) to specify the premises where the child is located.

No need to specify premises

(8) Where a peace officer or child protection worker believes on reasonable and probable grounds that a child apprehended under this section is in need of protection and there may be a substantial risk to the health or safety of the child if the child were returned to the parent,

Child protection proceedings

- (a) the peace officer or child protection worker may take the child to a place of safety under subsection 40 (6); or
- (b) where the child has been taken to a place of safety under subsection (5), the child shall be dealt with as if the child had been taken there under subsection 40 (6).

POWER OF ENTRY AND OTHER PROVISIONS FOR SPECIAL CASES OF APPREHENSION

**40d.**—(1) A person authorized to bring a child to a place of safety by a warrant issued under subsection 40a (1) or 40c (2) may at any time enter any premises specified in the warrant, by force, if necessary, and may search for and remove the child.

Authority to enter, etc.

(2) A person authorized under subsection 40a (4) or (5) or 40b (1) who believes on reasonable and probable grounds that a child referred to in the relevant subsection is on any premises may without a warrant enter the premises, by force, if necessary, and search for and remove the child.

Right of entry, etc.

(3) A person authorized to enter premises under this section shall exercise the power of entry in accordance with the regulations.

Regulations re power of entry

Police  
assistance

(4) A child protection worker acting under section 40a or 40c may call for the assistance of a peace officer.

Consent to  
examine child

(5) A child protection worker who deals with a child under subsection 40b (3) or 40c (5) as if the child had been taken to a place of safety may authorize the child's medical examination where a parent's consent would otherwise be required.

Place of  
open  
temporary  
detention

(6) Where a person who brings a child to a place of safety under section 40a or 40b believes on reasonable and probable grounds that no less restrictive course of action is feasible, the child may be detained in a place of safety that is a place of open temporary detention as defined in Part IV (Young Offenders).

Protection  
from  
personal  
liability

(7) No action shall be instituted against a peace officer or child protection worker for any act done in good faith in the execution or intended execution of that person's duty under this section or section 40a, 40b or 40c or for an alleged neglect or default in the execution in good faith of that duty.

**3. Subsection 42 (2) of the said Act is amended by striking out "under subsection 43 (1) (child protection hearing)" in the fourth and fifth lines.**

**4. Subsection 43 (1) of the said Act is amended by inserting after "40 (1)" in the second line "or a matter is brought before the court".**

**5. Section 48 of the said Act is amended by inserting after "40 (1)" in the first line "or a matter is brought before the court".**

**6. Subsection 74 (2) of the said Act is amended by inserting after "40" in the second line "or 40d".**

**7. Subsections 75 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Allowing  
child to  
loiter, etc.

(5) No parent of a child less than sixteen years of age shall permit the child to,

(a) loiter in a public place between the hours of midnight and 6 a.m.; or

(b) be in a place of public entertainment between the hours of midnight and 6 a.m., unless the parent accompanies the child or authorizes a specified individual eighteen years of age or older to accompany the child.



(6) Where a child who is actually or apparently less than sixteen years of age is in a place to which the public has access between the hours of midnight and 6 a.m. and is not accompanied by a person described in clause (5) (b), a peace officer may apprehend the child without a warrant and proceed as if the child had been apprehended under subsection 40b (1).

Police may take child home or to place of safety

**8. Clause 80 (b) of the said Act is repealed and the following substituted therefor:**

- (b) obstruct, interfere with or attempt to obstruct or interfere with a child protection worker or a peace officer who is acting under section 40, 40a, 40b, 40c or 40d.

**9. Subsection 89 (2) of the said Act is repealed and the following substituted therefor:**

(2) A provincial director may detain a young person in a place of secure temporary detention if the circumstances described in paragraph 1 or 2 apply to the young person and if the provincial director is satisfied that it is necessary to detain the young person in a place of secure temporary detention to ensure the young person's attendance in court or to protect the public interest or safety:

Where secure detention available

1. The young person is charged with an offence for which an adult would be liable to imprisonment for five years or more and,
  - i. the offence includes causing or attempting to cause serious bodily harm to another person,
  - ii. the young person has, at any time, failed to appear in court when required to do so under the federal Act or the *Juvenile Delinquents Act* (Canada) or escaped or attempted to escape from lawful detention, or
  - iii. the young person has, within the twelve months immediately preceding the offence on which the current charge is based, been convicted of an offence for which an adult would be liable to imprisonment for five years or more.
2. The young person is detained in a place of temporary detention and leaves or attempts to leave without the consent of the person in charge or is charged with having escaped or attempting to

R.S.C. 1970,  
c. J-3

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

escape from lawful custody or being unlawfully at large under the *Criminal Code* (Canada).

**10.—(1) Subsections 94 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:**

Apprehen-  
sion of young  
person absent  
from place of  
temporary  
detention

R.S.O. 1980,  
c. 400

(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the federal Act or the *Provincial Offences Act* in a place of temporary detention has left the place without the consent of the person in charge and fails or refuses to return there may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of temporary detention.

Idem: place  
of open  
custody

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 91,

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 91 (b),

may apprehend the young person with or without a warrant and take the young person or arrange for the young person to be taken to a place of open custody or a place of temporary detention.

Young  
person to be  
returned  
within forty-  
eight hours

(3) A young person who is apprehended under this section shall be returned to the place from which he or she is absent within forty-eight hours after being apprehended unless the provincial director detains the young person in secure temporary detention under paragraph 2 of subsection 89 (2).

**(2) Subsections 94 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Authority to  
enter, etc.

(5) Where a person authorized to apprehend a young person under subsection (1) or (2) believes on reasonable and probable grounds that a young person referred to in the relevant subsection is on any premises, the person may with or without a warrant enter the premises, by force, if necessary, and search for and remove the young person.

(6) A person authorized to enter premises under subsection (5) shall exercise the power of entry in accordance with the regulations.

Regulations re exercise of power of entry

**11.—(1) Paragraph 2 of subsection 110 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:**

- ii. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

**(2) Subsections 110 (2) and (3) of the said Act are repealed and the following substituted therefor:**

(2) Where an application is made under subsection (1), the court shall deal with the matter within ten days of the making of an order under subsection (5) (legal representation) or, where no such order is made, within ten days of the making of the application.

Time for hearing

**(3) Section 110 of the said Act is amended by adding thereto the following subsections:**

(4a) Where a hearing is adjourned, the court may make a temporary order for the child’s commitment to a secure treatment program if the court is satisfied that the child meets the criteria for commitment set out in clauses 113 (1) (a) to (f) and, where the child is less than twelve years old, the Minister consents to the child’s admission.

Interim order

(4b) For the purpose of subsection (4a), the court may admit and act on evidence that the court considers credible and trustworthy in the circumstances.

Evidence on adjournments

**12. Subsection 111 (3) of the said Act is amended by striking out “a single 180 day” in the second line and inserting in lieu thereof “the”.**

**13. Subsection 112 (4) of the said Act is amended by adding thereto the following clause:**

- (da) a society that has custody of the child under an order made under Part III (Child Protection).

**14. Subsections 114 (1) and (2) of the said Act are repealed and the following substituted therefor:**

Period of  
commitment

(1) The court shall specify in an order under subsection 113 (1) the period not exceeding 180 days for which the child shall be committed to the secure treatment program.

Where  
society is  
applicant

(2) Where a child is committed to a secure treatment program on a society's application and the period specified in the court's order is greater than sixty days, the child shall be released on a day sixty days after the child's admission to the secure treatment program unless before that day,

- (a) the child's parent consents to the child's commitment for a longer period; or
- (b) the child is made a Crown or society ward under Part III (Child Protection),

but in no case shall the child be committed to the secure treatment program for longer than the period specified under subsection (1).

**15.—(1) Section 116 of the said Act is amended by adding thereto the following subsection:**

Idem

(1a) Where a person is kept in the secure treatment program under subsection 114 (4) after attaining the age of eighteen years,

- (a) the person, with the written consent of the administrator;
- (b) the person's parent, with the written consent of the person and the administrator;
- (c) a physician, with the written consent of the administrator and the person; or
- (d) the administrator, with the written consent of the person,

may, before the expiry of the period of commitment, apply for one further order extending the person's commitment to the secure treatment program.

**(2) Subsection 116 (2) of the said Act is amended by inserting after "(1)" in the first line "or (1a)".**

**(3) Subsection 116 (3) of the said Act is amended by adding at the end thereof "or (1a)".**

**(4) Subsection 116 (5) of the said Act is repealed and the following substituted therefor:**

(5) The court shall specify in an order under subsection 116 (4) the period not exceeding 180 days for which the child shall be committed to the secure treatment program. Period of extension

**16. The said Act is further amended by adding thereto the following sections:**

#### REVIEW OF COMMITMENT

**117a.**—(1) Any one of the following persons may apply to the court for an order terminating an order made under subsection 113 (1) (commitment) or 116 (4) (extension): Review of commitment

1. The child, where the child is twelve years of age or more.
2. The child's parent.
3. The society having care, custody or supervision of the child.

(2) Subsections 110 (4), (5), (6), (7) and (8) (hearing) and sections 111 (child's waiver) and 112 (assessment) apply with necessary modifications to an application made under subsection (1). ss. 110 (4-8), 111, 112 apply

(3) The court shall make an order terminating a child's commitment unless the court is satisfied that, Termination of order

- (a) the child has a mental disorder;
- (b) the secure treatment program would continue to be effective to prevent the child from causing or attempting to cause serious bodily harm to himself, herself or another person;
- (c) no less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances; and
- (d) the child is receiving the treatment proposed at the time of the most recent order under subsection 113 (1) or 116 (4), or other appropriate treatment.

(4) In making an order under subsection (3), the court shall consider whether there is an appropriate plan for the child's care on release from the secure treatment program. Idem

ss. 116 (2-5),  
117, 117a  
apply

**117b.** Subsections 116 (2), (3), (4) and (5) and sections 117 and 117a apply with necessary modifications to a person who is eighteen years of age or older and committed to a secure treatment program as if the person were a child.

**17.—(1) Paragraph 2 of subsection 118 (1) of the said Act is amended by striking out “or” at the end of subparagraph ii and by adding thereto the following subparagraph:**

- ia. a society that has custody of the child under an order made under Part III (Child Protection), if the child consents to the application, or

**(2) Subsection 118 (2) of the said Act is amended by inserting after “subsection (1)” in the second line “for a period not to exceed thirty days”.**

**(3) Clause 118 (2) (b) of the said Act is repealed and the following substituted therefor:**

- (b) the child has, as a result of the mental disorder, caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself, herself or another person.

**(4) Subsection 118 (6) of the said Act is repealed and the following substituted therefor:**

Notices  
required

(6) The administrator shall ensure that within twenty-four hours after a child is admitted to a secure treatment program under subsection (2),

- (a) the child is given written notice of his or her right to a review under subsection (9); and
- (b) the Office of Child and Family Service Advocacy and the Official Guardian are given notice of the child’s admission.

Mandatory  
advice

(7) The Office of Child and Family Service Advocacy shall ensure that forthwith after the notice is received a person who is not employed by the secure treatment facility explains to the child his or her right to a review in language suitable for the child’s level of understanding.

Official  
Guardian to  
ensure child  
represented

(8) The Official Guardian shall represent the child at the earliest possible opportunity and in any event within five days

after receiving a notice under subsection (6) unless the Official Guardian is satisfied that another person will provide legal representation for the child within that time.

(9) Where a child is admitted to a secure treatment program under this section, any person, including the child, may apply to the Board for an order releasing the child from the secure treatment program.

Application for review

(10) Where an application is made under subsection (9), the child may be kept in the secure treatment program until the application is disposed of.

Child may be kept in program while application pending Procedure

(11) Subsections 110 (6), (7) and (8) (hearing) and section 111 (waive oral evidence) apply with necessary modifications to an application made under subsection (9).

(12) Where an application is made under subsection (9), the Board shall dispose of the matter within five days of the making of the application.

Time for review

(13) The Board shall make an order releasing the child from the secure treatment program unless the Board is satisfied that the child meets the criteria for emergency admission set out in clauses 118 (2) (a) to (e).

Order

**18. Section 119 of the said Act is amended by adding thereto the following subsections:**

(2) Where a child who has been admitted to a secure treatment program leaves the facility in which the secure treatment program is located without the consent of the administrator, a peace officer may apprehend the child with or without a warrant and return the child to the facility.

Apprehension of child who leaves

(3) Where a child is returned to a facility under subsection (2), the time that the child was absent from the facility shall not be taken into account in calculating the period of commitment.

Period of commitment

**19. Subsection 125 (2) of the said Act is amended by inserting after "child" in the third line "who has been admitted to a secure treatment program under this Part".**

**20. Clause 126 (2) (c) of the said Act is amended by striking out "any" in the first line and inserting in lieu thereof "the".**

**21. The said Act is further amended by adding thereto the following section:**

Definition

**166a.**—(1) In this section, “record of a mental disorder” means a record or a part of a record made about a person concerning a substantial disorder of emotional processes, thought or cognition of the person which grossly impairs the person’s capacity to make reasoned judgments.

Disclosure pursuant to subpoena

(2) A service provider shall disclose, transmit or permit the examination of a record of a mental disorder pursuant to a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act unless a physician states in writing that he or she believes that to do so,

(a) is likely to result in harm to the treatment or recovery of the person to whom the record relates; or

(b) is likely to result in,

(i) injury to the mental condition of another person, or

(ii) bodily harm to another person.

Hearing to be held

(3) The court before which a matter described in subsection (2) is in issue on motion or, where a disclosure, transmittal or examination is not required by a court, the Divisional Court on motion shall determine whether the record referred to in the physician’s statement should be disclosed, transmitted or examined.

Idem

(4) A motion under subsection (3) shall be on notice to the physician and shall be held in the absence of the public.

Consideration of court

(5) In a motion under subsection (3), the court shall consider whether or not the disclosure, transmittal or examination of the record referred to in the physician’s statement is likely to have a result described in clause (2) (a) or (b) and for the purpose the court may examine the record.

Order of court

(6) The court shall not order that the record referred to in the physician’s statement be disclosed, transmitted or examined if the court is satisfied that a result described in clause (2) (a) or (b) is likely unless satisfied that to do so is essential in the interests of justice.



(7) Where a record of a mental disorder is required under this section, the clerk of the court or body in which it is admitted in evidence or, if not so admitted, the person to whom the record is transmitted shall return the record to the service provider forthwith after the determination of the matter in issue in respect of which the record was required.

Return of  
record to  
service  
provider

**22.—(1)** Clause 199 (a) of the said Act is amended by striking out “(14)” in the second line and inserting in lieu thereof “(10) and section 40d”.

(2) Section 199 of the said Act is amended by adding thereto the following clause:

(h) prescribing forms and providing for their use.

**23.** Clause 200 (1) (m) of the said Act is amended by striking out “by a warrant issued under subsection 94 (4)” in the second line and inserting in lieu thereof “under subsection 94 (5)”.

**24.—(1)** Clause 202 (a) of the said Act is amended by striking out “children” in the first line and inserting in lieu thereof “persons”.

(2) Clause 202 (i) of the said Act is amended by striking out “or combinations of drugs” in the first line and inserting in lieu thereof “combinations of drugs or classes of drugs”.

**25.** A child who is a patient in a psychiatric facility under a certificate of involuntary admission under the *Mental Health Act* on the day this section comes into force and who is in premises where a secure treatment program has been established or approved shall be deemed to have been committed to the secure treatment program under section 113 for a period that ends when the certificate expires.

Transition  
R.S.O. 1980,  
c. 262

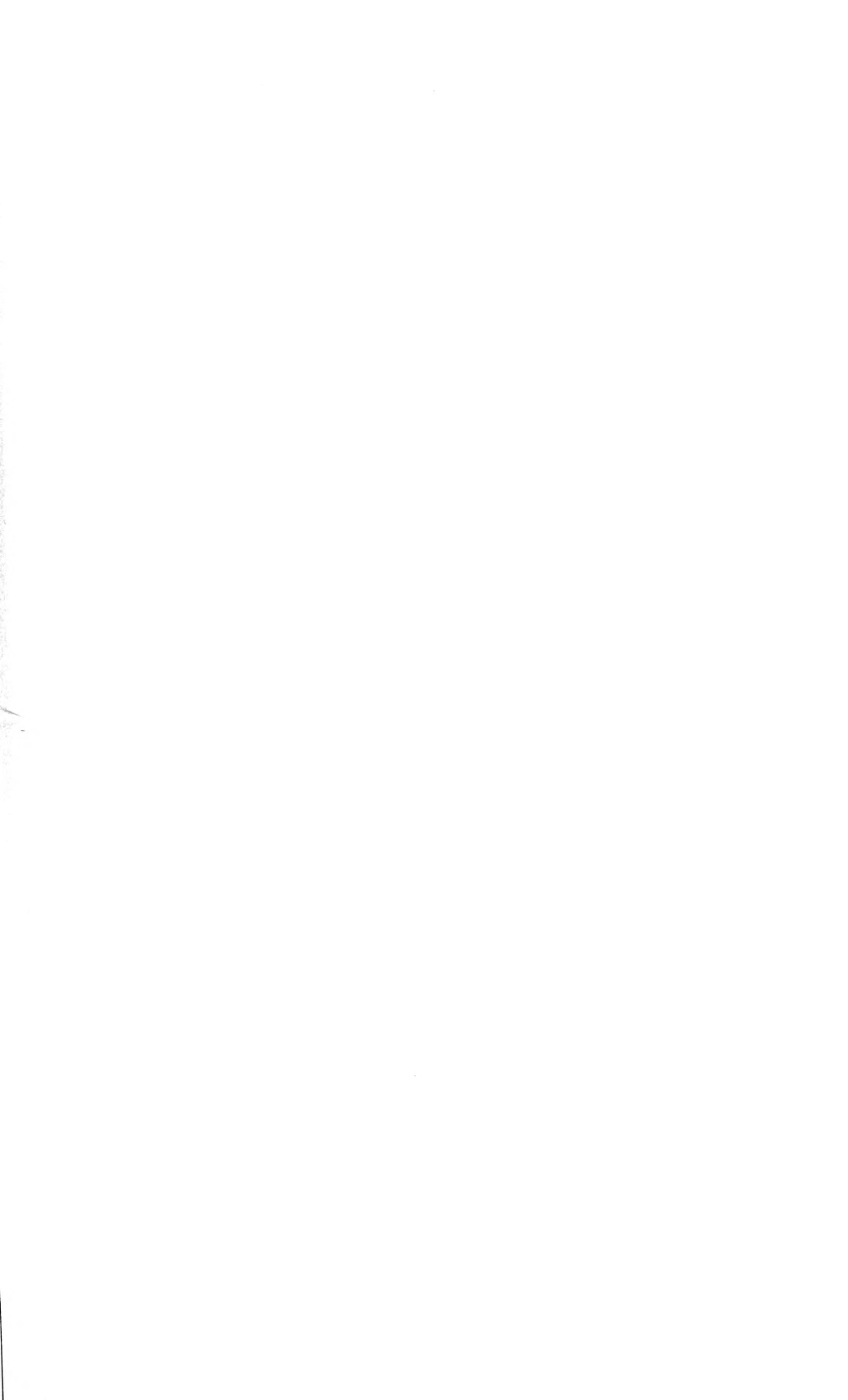
**26.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-  
ment

**27.** The short title of this Act is the *Child and Family Services Amendment Act, 1988*.

Short title







# Bill 108

## **An Act to amend the Rental Housing Protection Act, 1986**

The Hon. C. Hošek  
*Minister of Housing*

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*1st Reading*      April 7th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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#### EXPLANATORY NOTE

The *Rental Housing Protection Act, 1986* contains a sunset provision repealing the Act on the 30th day of June, 1988. The purpose of the Bill is to delay the repeal of the Act for one year, to the 30th day of June, 1989. A consequential change is made to the *Land Titles Act* by section 1.

**Bill 108**

**1988**

**An Act to amend the  
Rental Housing Protection Act, 1986**

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

**1.** Subsection 12 (2) of the *Rental Housing Protection Act, 1986*, being chapter 26, is amended by striking out "the 30th day of June, 1988" in the second and third lines and inserting in lieu thereof "the 30th day of June, 1989".

**2.** Section 13 of the said Act is repealed and the following substituted therefor:

**13.** This Act, except subsection 12 (2), is repealed on the 30th day of June, 1989. Repeal

**3.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**4.** The short title of this Act is the *Rental Housing Protection Amendment Act, 1988*. Short title





# Bill 108

*(Chapter 22  
Statutes of Ontario, 1988)*

## **An Act to amend the Rental Housing Protection Act, 1986**

The Hon. C. Hošek  
*Minister of Housing*

<i>1st Reading</i>	April 7th, 1988
<i>2nd Reading</i>	May 16th, 1988
<i>3rd Reading</i>	May 17th, 1988
<i>Royal Assent</i>	May 24th, 1988



**Bill 108**

**1988**

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**13.** This Act, except subsection 12 (2), is repealed on the 30th day of June, 1989. Repeal

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ment

**4.** The short title of this Act is the *Rental Housing Protection Amendment Act, 1988*. Short title



# Bill 109

**An Act to establish  
a French-language  
School Board  
for the Regional Municipality  
of Ottawa-Carleton**

The Hon. C. Ward  
*Minister of Education*

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*1st Reading* April 11th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

# Projet de loi 109

**Loi portant création d'un  
Conseil scolaire de  
langue française pour  
la municipalité  
régionale d'Ottawa-Carleton**

L'honorable C. Ward  
*ministre de l'Éducation*

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*1<sup>re</sup> lecture* 11 avril 1988

*2<sup>e</sup> lecture*

*3<sup>e</sup> lecture*

*sanction royale*

## EXPLANATORY NOTES

**PART I.** The Bill establishes a French-language school board for the Ottawa-Carleton region. The French-language Board is given exclusive jurisdiction in the Ottawa-Carleton region in respect of school instruction in French-language instructional units.

The French-language Board acts through its full board, its public sector, which is responsible for governing the French-language Board's public schools, and its Roman Catholic sector, which is responsible for governing the French-language Board's Roman Catholic schools.

**PART II.** The Bill allocates jurisdiction for governing the French-language Board among the full board, the public sector and the Roman Catholic sector. Jurisdiction in respect of the matters set out in subsection 4 (1) is given to the public sector in respect of its schools and the Roman Catholic sector in respect of its schools. The sectors may by agreement transfer jurisdiction of matters set out in paragraphs 19 to 29 of that subsection to the full board for the term of election of their members. They may also by agreement resume exclusive jurisdiction. Matters set out in subsection 4 (2) require a majority vote of both sectors. Jurisdiction in respect of matters set out in subsection 4 (3) is given to the full board.

The matters over which the sectors are given irrevocable jurisdiction include all matters concerned with planning, financing and administering instructional units, educational matters in them, hiring and firing teachers, issuing debentures, raising money, requisitioning and receiving funds from municipalities, reporting to the Minister of Education and receiving funds from the Province.

The matters over which the full board is given irrevocable jurisdiction include establishing and maintaining a head office and providing administrative services from it, providing and maintaining buildings, furniture and equipment for the French-language Board and providing insurance for the French-language Board.

**PART III.** Persons who are qualified to attend a school operated by a public board and who have the right under section 23 of the *Canadian Charter of Rights and Freedoms* to be educated in the French language have the right to attend a school operated by the public sector of the French-language Board. If they are qualified to attend a school operated by a separate school board and have the French-language rights, they have the right to attend a school operated by the Roman Catholic sector of the French-language Board. The French-language Board is given discretion to allow persons who do not have French-language rights to attend the French-language Board's schools. Provision is made for agreements to purchase instruction between sectors and between a sector and a board.

**PART IV.** This Part permits ratepayers in the Ottawa-Carleton region to direct their municipal tax support to the public sector or the Roman Catholic sector of the French-language Board in the same manner that separate school supporters may direct their tax support under the *Education Act*. In the result, a ratepayer may be a supporter of any one of a public school board, a separate school board, the public sector of the French-language Board or the Roman Catholic sector of the French-language Board.

Under the *Education Act* the municipal property and business tax support of a corporation is applied to the public schools unless the corporation requires part or all of that tax support to be applied to the separate schools. Under the *Education Act*, the proportion of tax support that a corporation is permitted to apply to the separate schools may not exceed the proportion of its share holdings that are held by Roman Catholics. The Bill similarly allows a corporation to require part or all of its tax support to be applied to

## NOTES EXPLICATIVES

**PARTIE I.** Le projet de loi crée un conseil scolaire de langue française pour la région d'Ottawa-Carleton. Le Conseil de langue française a la compétence exclusive, dans la région d'Ottawa-Carleton, à l'égard de l'enseignement dans les modules scolaires de langue française.

Le Conseil de langue française agit par l'intermédiaire de son conseil plénier, de sa section publique, qui gère les écoles publiques du Conseil de langue française, et de sa section catholique, qui gère les écoles catholiques du Conseil de langue française.

**PARTIE II.** Le projet de loi répartit entre le conseil plénier, la section publique et la section catholique la compétence pour gérer le Conseil de langue française. La compétence à l'égard des questions énoncées au paragraphe 4 (1) appartient à la section publique en ce qui concerne ses écoles, et à la section catholique en ce qui concerne les siennes. Les sections peuvent s'entendre pour transférer au conseil plénier la compétence à l'égard des questions énoncées aux dispositions 19 à 29 de ce paragraphe, pendant le mandat de leurs membres. Elles peuvent également s'entendre pour reprendre la compétence exclusive. Les questions énoncées au paragraphe 4 (2) nécessitent le vote majoritaire des deux sections. La compétence à l'égard des questions énoncées au paragraphe 4 (3) appartient au conseil plénier.

Les questions qui relèvent de la compétence irrévocable des sections comprennent toutes les questions portant sur la planification, le financement et l'administration des modules scolaires, les activités éducatives qui s'y déroulent, l'engagement et le congédiement des enseignants, l'émission de débentures, le fait de recueillir des fonds, la demande et l'obtention de fonds des municipalités, et le fait de rendre compte au ministre de l'Éducation et de recevoir des fonds de la province.

Les questions qui relèvent de la compétence irrévocable du conseil plénier comprennent la création et le maintien d'un siège social et la fourniture des services administratifs qui y sont offerts, la fourniture et l'entretien des bâtiments, de l'ameublement et de l'équipement pour le Conseil de langue française ainsi que la souscription d'assurances pour le Conseil de langue française.

**PARTIE III.** Les personnes qui satisfont aux conditions requises pour fréquenter une école qui relève d'un conseil public et qui ont droit, en vertu de l'article 23 de la *Charte canadienne des droits et libertés*, à l'instruction en français, ont le droit de fréquenter une école qui relève de la section publique du Conseil de langue française. Si elles satisfont aux conditions requises pour fréquenter une école qui relève d'un conseil d'écoles séparées et qu'elles ont droit à l'instruction en français, elles ont le droit de fréquenter une école qui relève de la section catholique du Conseil de langue française. Le Conseil de langue française peut, à sa discrétion, permettre à des personnes qui n'ont pas droit à l'instruction en français de fréquenter une école du Conseil de langue française. Le projet de loi prévoit des ententes en vue de l'achat de services d'enseignement entre les sections, et entre une section et un conseil.

**PARTIE IV.** La présente partie permet aux contribuables de la région d'Ottawa-Carleton d'affecter leurs impôts municipaux au soutien de la section publique ou de la section catholique du Conseil de langue française de la même façon que les contribuables des écoles séparées peuvent affecter leurs impôts en vertu de la *Loi sur l'éducation*. En conséquence, le contribuable peut affecter ses impôts au soutien d'un conseil d'écoles publiques, d'un conseil d'écoles séparées, de la section publique du Conseil de langue française ou de la section catholique de ce conseil.

Aux termes de la *Loi sur l'éducation*, les impôts municipaux, fonciers et commerciaux d'une personne morale sont affectés au soutien des écoles publiques à moins que la personne morale ne demande qu'une partie ou la totalité de ses impôts soit affectée au soutien des écoles séparées. Aux termes de la *Loi sur l'éducation*, la proportion d'impôts qu'une personne morale a le droit d'affecter au soutien des écoles séparées ne doit pas dépasser la proportion de ses actions qui sont détenues par des catholiques. Le projet de

the public sector or the Roman Catholic sector of the French-language Board. The proportion of tax support that a corporation is permitted to apply to the public sector may not exceed the proportion of its share holdings that are held by persons with French-language rights. The proportion of tax support that it may apply to the Roman Catholic sector may not exceed the proportion of its share holdings that are held by Roman Catholic persons with French-language rights. A corporation may divide its tax support among any or all of the four school systems.

**PART V.** To be an elector of a sector of the French-language Board a person must have French-language rights under the Charter. If such a person is qualified under the *Education Act* to be a public school elector he or she may be a public sector elector. If such a person is qualified under the *Education Act* to be a separate school elector, he or she may be a Roman Catholic sector elector. No person is entitled to vote both for members of a sector and for members of another sector or a board under the *Education Act*.

**PART VI.** The French-language Board is given the same duties and powers as a board under the *Education Act*, with the jurisdiction for exercising them being given to the sectors or to the full board as set out in Part II. There is one treasurer appointed for the French-language Board who serves in respect of both sectors and the full board. The sectors and the full board each appoint their own secretary. The Roman Catholic sector is given full power and responsibility to operate at the secondary school level. The French-language Board is required to offer English instruction in grades 5 to 8 and may do so in other grades.

**PART VII.** Members are elected to the sectors and every member of a sector is also a member of the full board. A person is qualified to be elected as a member of a sector if the person is qualified to be an elector in respect of that sector and resides in the Ottawa-Carleton region.

**PART VIII.** The calculation and distribution of members of each sector is to be determined in the manner provided by Bill 76. The number of members of the French-language Board is based on the number of persons, including supporters, electors and their dependants, who are to be represented by it. The number of members distributed to each sector is based on the proportion of the persons represented by the French-language Board who are represented by that sector. Neither sector is to have fewer than seven members.

**PART IX.** There is to be one auditor for the French-language Board, to be appointed by agreement between the sectors. Each sector is to have its own estimates and its own financial statement.

The estimates and expenditures of the full board are to be allocated to the sectors and included in the sectors' estimates and financial statements in the same proportion that the average daily enrolment of pupils in each sector bears to the average daily enrolment of the French-language Board. For the purpose of preparing of estimates and levying and collecting of rates, the public sector is treated in the same way as a divisional board and the Roman Catholic sector is treated in the same way as a separate school board.

The sectors are both to share in legislative and municipal grants in the same way as a public board. Provision is also made for special temporary grants for the French-language Board.

**PART X.** Each sector is to appoint a director of education who is responsible to that sector for the development, implementation, operation and supervision of its educational programs and who is the chief executive officer for that sector in its areas of jurisdiction. The full board is to appoint an executive director who is to be the chief executive officer



loi permet également à une personne morale de demander qu'une partie ou la totalité de ses impôts soit affectée au soutien de la section publique ou de la section catholique du Conseil de langue française. La proportion d'impôts qu'une personne morale a le droit d'affecter au soutien de la section publique ne doit pas dépasser la proportion de ses actions qui sont détenues par des personnes qui ont droit à l'instruction en français. La proportion d'impôts qu'elle peut affecter au soutien de la section catholique ne doit pas dépasser la proportion de ses actions qui sont détenues par des catholiques qui ont droit à l'instruction en français. Une personne morale peut diviser les impôts qu'elle affecte entre les quatre organisations scolaires ou un nombre quelconque d'entre elles.

**PARTIE V.** Pour être électeur d'une section du Conseil de langue française, une personne doit avoir droit à l'instruction en français en vertu de la Charte. Si cette personne satisfait aux conditions requises aux termes de la *Loi sur l'éducation* pour être électeur des écoles publiques, elle peut être électeur de la section publique. Si elle satisfait aux conditions requises aux termes de la *Loi sur l'éducation* pour être électeur des écoles séparées, elle peut être électeur de la section catholique. Nul n'a le droit de voter à la fois pour des membres d'une section et pour des membres d'une autre section ou d'un conseil aux termes de la *Loi sur l'éducation*.

**PARTIE VI.** Le Conseil de langue française a les mêmes fonctions et pouvoirs qu'un conseil au sens de la *Loi sur l'éducation*, et la compétence pour les exercer est accordée aux sections ou au conseil plénier, selon ce que prévoit la partie II. Un seul trésorier est nommé pour le Conseil de langue française; il est au service des deux sections et du conseil plénier. Les sections et le conseil plénier nomment chacun leur secrétaire. Au niveau secondaire, la section catholique a tous les pouvoirs et l'entière responsabilité. Le Conseil de langue française est tenu d'offrir l'enseignement de l'anglais en 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années et peut le faire dans les autres années.

**PARTIE VII.** Les membres sont élus aux sections et tout membre d'une section est également membre du conseil plénier. Une personne est éligible comme membre d'une section si elle satisfait aux conditions requises pour être électeur à l'égard de cette section et qu'elle réside dans la région d'Ottawa-Carleton.

**PARTIE VIII.** Le calcul et la répartition des membres de chaque section se font de la façon prévue par le projet de loi 76. Le nombre de membres du Conseil de langue française est fondé sur le nombre de personnes, y compris les contribuables, les électeurs et les personnes qui sont à leur charge, que le Conseil de langue française doit représenter. Le nombre de membres répartis dans chaque section est fondé sur la proportion des personnes représentées par le Conseil de langue française qui est représentée par cette section. Les deux sections doivent avoir au moins sept membres chacune.

**PARTIE IX.** Le Conseil de langue française a un vérificateur qui est nommé d'un commun accord des sections. Chaque section a ses prévisions et ses états financiers.

Les prévisions et les dépenses du conseil plénier sont affectées aux sections et incluses aux prévisions et aux états financiers dans la même proportion que le rapport qui existe entre l'effectif quotidien moyen dans chaque section et l'effectif quotidien moyen au Conseil de langue française. Aux fins de préparer les prévisions et de prélever et percevoir les impôts, la section publique est assimilée à un conseil de division scolaire et la section catholique est assimilée à un conseil d'écoles séparées.

Les sections se partagent les subventions générales et municipales de la même façon qu'un conseil public. Le projet de loi prévoit également des subventions spéciales et temporaires pour le Conseil de langue française.

**PARTIE X.** Chaque section nomme un directeur de l'éducation qui est responsable, devant cette section, de l'élaboration, de la mise en oeuvre, de l'application et de la supervision de ses programmes d'éducation et qui est chef de service administratif de cette section, dans les domaines de compétence de celle-ci. Le conseil plénier nomme un directeur général qui est chef de service administratif dans les domaines de compétence de ce conseil. Le conseil plénier, la section publique et la section catholique peuvent cha-

in its areas of jurisdiction. The full board, the public sector and the Roman Catholic sector may each hire supervisory officers in their areas of jurisdiction and two or more of them may hire a supervisory officer to work for both or all of them.

**PART XI.** The Bill provides for resolution of disputes between the sectors or between the French-language Board and one or more public or separate boards in the Ottawa-Carleton region. Disputes between the sectors are to be resolved by panels of the Commission composed only of French-speaking members. The other disputes are to be resolved by the full Commission and for the purpose a quorum is seven. The Bill provides for appointment of a mediator by the parties or, if they cannot agree, by the Commission. The mediator is to inquire into and report on the matter. If there is no agreement the Commission is to consider and inquire into the matter and recommend a course of action. If there is still no agreement the matter is to be referred to an arbitration board, whose decision is binding on the parties. The Languages of Instruction Commission is enlarged from five to nine members in order that it may handle disputes under this Bill.

**PART XII.** All schools belonging to any of the four school boards now in the Ottawa-Carleton region and used on or after January 31, 1988 as French-language schools are to be transferred to the French-language Board on January 1, 1989. Responsibility for debentures issued in respect of those schools is given to the French-language Board. The personal property in the schools is to be transferred as well. The French-language Board and one of the other boards may agree to transfer another school in the place of one identified above.

The Part provides that each of the presently existing boards in Ottawa-Carleton shall determine by August 31, 1988 which of its other assets and reserves are to be transferred to the French-language Board. The determination is to be based on an equitable contribution to the French-language Board and requires approval by a majority of members of the existing board's French-language Education Council and a majority of its other members. A dispute between these two groups is to be referred to the Commission as a dispute under Part XI. If, after its inception in December, 1988, the French-language Board does not agree with the decision of an existing board, the French-language Board is to refer the matter to the Commission as a dispute under Part XI.

**PART XIII.** The services of all employees of existing boards who are recruited or assigned to work part or all of their time in or on behalf of French-language schools are assigned to the French-language Board for the period from January 1, 1989 to August 31, 1989. The French-language Board is required to reimburse the appropriate board for those services in an amount to be agreed upon by the boards.

All employees of existing boards who are recruited or assigned to work exclusively in or on behalf of French-language instructional units are to be designated to be transferred to the French-language Board effective September 1, 1989. A designated employee may object to the transfer, in which case another employee will be designated in his or her place if there is another employee who is willing and qualified to be so designated.

Provision is made for the transfer of additional employees from the existing boards to the French-language Board by agreement among all those boards in each of the first three years of the operation of the French-language Board. The Bill also ensures that no employees shall lose their jobs by reason only that their positions become redundant in those three years consequent upon the formation of the French-language Board.

The Part has provisions concerning compensation, sick leave, gratuities upon leaving and seniority for transferred employees and new employees for the first ten years of operation of the French-language Board. Those provisions are subject to any collective agreement negotiated by the French-language Board.

cun engager des agents de supervision dans leurs domaines de compétence, et deux d'entre eux ou plus peuvent engager un agent de supervision qui est au service des deux ou des trois.

**PARTIE XI.** Le projet de loi prévoit la résolution des conflits entre les sections, ou entre le Conseil de langue française et un ou plusieurs conseils d'écoles publiques ou d'écoles séparées dans la région d'Ottawa-Carleton. Les conflits entre les sections sont résolus par des comités de la Commission, composés de membres francophones seulement. Les autres conflits sont résolus par la Commission entière et, à cette fin, sept membres constituent le quorum. Le projet de loi prévoit la nomination d'un médiateur par les parties ou, si celles-ci sont incapables de s'entendre, par la Commission. Le médiateur fait enquête et présente un rapport sur la question. Si les parties n'arrivent pas à s'entendre, la Commission étudie la question, fait enquête sur celle-ci et recommande des mesures à prendre. S'il n'y a toujours pas d'entente, la question est renvoyée à un conseil d'arbitrage, dont la décision lie les parties. La Commission des langues d'enseignement de l'Ontario passe de cinq à neuf membres afin de pouvoir résoudre les conflits visés par le présent projet de loi.

**PARTIE XII.** Toutes les écoles qui relèvent des quatre conseils scolaires actuels de la région d'Ottawa-Carleton et qui sont utilisées comme écoles de langue française le 31 janvier 1988 ou par la suite sont transférées au Conseil de langue française le 1<sup>er</sup> janvier 1989. La responsabilité des débetures émises à l'égard de ces écoles appartient au Conseil de langue française. Les biens meubles qui se trouvent dans les écoles sont également transférés. Le Conseil de langue française et un des autres conseils peuvent s'entendre pour transférer une autre école à la place d'une de celles qui sont mentionnées ci-dessus.

La partie prévoit que chacun des conseils qui existent actuellement dans la région d'Ottawa-Carleton décide, au plus tard le 31 août 1988, quels autres biens et réserves seront transférés au Conseil de langue française. Le calcul est fondé sur une contribution équitable au Conseil de langue française, et nécessite l'approbation de la majorité des membres du conseil de l'enseignement en langue française du conseil existant et de la majorité de ses autres membres. Un conflit entre ces deux groupes est renvoyé à la Commission comme un conflit visé à la partie XI. Si, après son établissement en décembre 1988, le Conseil de langue française n'est pas d'accord avec la décision d'un conseil existant, il renvoie la question à la Commission comme un conflit visé à la partie XI.

**PARTIE XIII.** Les services de tous les employés des conseils existants qui sont recrutés ou affectés pour travailler en partie ou entièrement dans des écoles de langue française, ou pour leur compte, sont affectés au Conseil de langue française pour la période allant du 1<sup>er</sup> janvier 1989 au 31 août 1989. Le Conseil de langue française est tenu de rembourser ces services au conseil intéressé pour un montant convenu par les conseils.

Tous les employés des conseils existants qui sont recrutés ou affectés pour travailler exclusivement dans des modules scolaires de langue française, ou pour leur compte, sont désignés pour être mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989. Un employé désigné peut s'opposer à la mutation, auquel cas un autre employé sera désigné à sa place s'il y a un autre employé qui accepte d'être muté et qui a les qualifications requises.

Le projet de loi prévoit la mutation d'autres employés des conseils existants au Conseil de langue française d'un commun accord de tous ces conseils, au cours de chacune des trois premières années de fonctionnement du Conseil de langue française. Le projet de loi prévoit également qu'aucun employé ne perdra son emploi parce que son poste est éliminé au cours de ces trois années par suite de la formation du Conseil de langue française.

La partie comporte des dispositions sur la rémunération, les congés de maladie, le droit à un paiement à la fin d'un emploi et l'ancienneté des employés mutés et des nouveaux employés au cours des dix premières années de fonctionnement du Conseil de langue française. Ces dispositions sont assujetties à toute négociation collective négociée par le Conseil de langue française.

Provision is made for negotiation of new contracts for teachers to begin early in 1989 between the sectors and the relevant branch affiliate representing teachers designated for transfer. Provision is also made to determine successor rights in respect of other employees of the French-language Board under the *Labour Relations Act*.

**PART XIV.** During the month of December, 1988, the existing boards are required to obtain the approval of the appropriate sector of the French-language Board before making any decisions that may affect the French-language Board.

Complementary amendments are made to the *Assessment Act*, the *Education Act*, the *Municipal Elections Act* and the *School Boards and Teachers Collective Negotiations Act*.

Le projet de loi prévoit la négociation de nouveaux contrats pour les enseignants à compter du début de l'année 1989, entre les sections et la section locale intéressée qui représente les enseignants désignés pour la mutation. Il établit également les droits du conseil qui succède à l'égard des autres employés du Conseil de langue française aux termes de la *Loi sur les relations de travail*.

**PARTIE XIV.** Au cours du mois de décembre 1988, les conseils existants sont tenus d'obtenir l'approbation de la section intéressée du Conseil de langue française avant de prendre une décision qui pourrait toucher celui-ci.

Des modifications corrélatives sont apportées à la *Loi sur l'évaluation foncière*, à la *Loi sur l'éducation*, à la *Loi sur les élections municipales* et à la *Loi sur la négociation collective entre conseils scolaires et enseignants*.

**Bill 109****1988**

**An Act to establish  
a French-language School Board  
for The Regional Municipality of  
Ottawa-Carleton**

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

**Projet de loi 109****1988**

**Loi portant création d'un  
Conseil scolaire de langue française  
pour la municipalité régionale  
d'Ottawa-Carleton**

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

## INTERPRETATION

Definitions	<b>1.—(1)</b> In this Act,
“municipalité de secteur”	“area municipality” means the municipality or corporation of the Township of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier or the Township of West Carleton;
“Commission” R.S.O. 1980, c. 129	“Commission” means the Languages of Instruction Commission of Ontario continued under Part XI of the <i>Education Act</i> ;
“conseil de langue anglaise”	“English-language board” means The Ottawa Board of Education, The Carleton Board of Education, The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board;
“Conseil de langue française”	“French-language Board” means The Ottawa-Carleton French-language School Board;
“module scolaire de langue française”	“French-language instructional unit” means a class, group of classes or school in which French is the language of instruction, but does not include a class, group of classes or school established under clause 8 (1) (y) of the <i>Education Act</i> (French-language instruction for English-speaking pupils);
“franco- phone”	“French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the <i>Canadian Charter of Rights and Freedoms</i> to have his or her children receive their primary and secondary school instruction in the French language in Ontario;
“conseil plénier”	“full board” means all of the members of the French-language Board;
“ministre”	“Minister” means the Minister of Education;
“section publique”	“public sector” means those members of the French-language Board who are elected as members of the public sector;
“Région”	“Region” means The Regional Municipality of Ottawa-Carleton;



## INTERPRÉTATION

- 1** (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions
- «Commission» La Commission des langues d'enseignement de l'Ontario maintenue aux termes de la partie XI de la *Loi sur l'éducation*. «Commission»  
L.R.O. 1980  
chap. 129
- «conseil de langue anglaise» Le Conseil de l'éducation d'Ottawa, le Conseil de l'éducation de Carleton, le Conseil des écoles séparées catholiques d'Ottawa ou le Conseil des écoles séparées catholiques de Carleton. «English-language board»
- «Conseil de langue française» Le Conseil scolaire de langue française d'Ottawa-Carleton. «French-language Board»
- «conseil plénier» L'ensemble des membres du Conseil de langue française. «full board»
- «francophone» Personne qui a le droit, en vertu du paragraphe 23 (1) ou (2), sans tenir compte du paragraphe 23 (3), de la *Charte canadienne des droits et libertés*, de faire instruire ses enfants en français, aux niveaux élémentaire et secondaire, en Ontario. «French-speaking person»
- «ministre» Le ministre de l'Éducation. «Minister»
- «module scolaire de langue française» S'entend d'une classe, d'un groupe de classes ou d'une école dans lesquelles le français est la langue d'enseignement, à l'exclusion toutefois d'une classe, d'un groupe de classes ou d'une école créées en vertu de l'alinéa 8 (1) y) de la *Loi sur l'éducation* (enseignement en langue française à l'intention des élèves anglophones). «French-language instructional unit»
- «municipalité de secteur» La municipalité du canton de Cumberland, de la cité de Gloucester, du canton de Goulbourn, de la cité de Kanata, de la cité de Nepean, du canton d'Osgoode, de la cité d'Ottawa, du canton de Rideau, du village de Rockcliffe Park, de la cité de Vanier ou du canton de Carleton ouest. «area municipality»
- «organisation scolaire» S'entend d'un conseil d'écoles séparées dans la Région, d'un conseil d'écoles publiques dans la Région, de la section publique ou de la section catholique. «school system»
- «Région» La municipalité régionale d'Ottawa-Carleton. «Region»

- “section catholique” “Roman Catholic sector” means those members of the French-language Board who are elected as members of the Roman Catholic sector;
- “organisation scolaire” “school system” means a separate school board in the Region, a public school board in the Region, the public sector or the Roman Catholic sector.
- Regulations under R.S.O. 1980, c. 129 (2) A reference in this Act to the *Education Act* or to a provision of it shall be deemed to include a reference to the regulations made under that Act or provision.
- Definitions under R.S.O. 1980, c. 129 (3) Except where otherwise provided in this Act, words and expressions used in this Act have the same meaning as in section 1 of the *Education Act*.
- Application of R.S.O. 1980, c. 129, s. 1 (4) Subsections 1 (2) and (4) of the *Education Act* apply with necessary modifications in respect of the French-language Board.

## PART I

### FRENCH-LANGUAGE SCHOOL BOARD ESTABLISHED

- French-language school board 2.—(1) There is established on the 1st day of December, 1988 a school board for French-language instruction in the Region under the name “The Ottawa-Carleton French-language School Board”.
- Idem (2) The French-language Board is a body corporate.
- Jurisdiction of French-language Board R.S.O. 1980, c. 129 (3) On and after the 1st day of January, 1989, the French-language Board has all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in French-language instructional units.
- Jurisdiction of English-language boards (4) On and after the 1st day of January, 1989, the English-language boards have all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in classes, groups of classes or schools other than French-language instructional units.
- French-language instruction (5) On and after the 1st day of January, 1989, Parts XI and XI-A of the *Education Act* do not apply to the English-language boards.

- «section catholique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section catholique. «Roman Catholic sector»
- «section publique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section publique. «public sector»
- (2) Dans la présente loi, un renvoi à la *Loi sur l'éducation* ou à une disposition de celle-ci est réputé inclure un renvoi aux règlements pris en application de cette loi ou de cette disposition. Règlements pris en application du chap. 129 des L.R.O. de 1980
- (3) Sauf dispositions contraires de la présente loi, les termes et expressions utilisés dans la présente loi s'entendent au sens de l'article 1 de la *Loi sur l'éducation*. Définitions du chap. 129 des L.R.O. de 1980
- (4) Les paragraphes 1 (2) et (4) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Champ d'application de l'art. 1 du chap. 129 des L.R.O. de 1980

## PARTIE I

### CRÉATION DU CONSEIL SCOLAIRE DE LANGUE FRANÇAISE

- 2** (1) Est créé, le 1<sup>er</sup> décembre 1988, un conseil scolaire chargé de l'enseignement en langue française dans la Région. Il porte le nom de «Conseil scolaire de langue française d'Ottawa-Carleton». Conseil scolaire de langue française
- (2) Le Conseil de langue française est une personne morale. Idem
- (3) À compter du 1<sup>er</sup> janvier 1989, le Conseil de langue française possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les modules scolaires de langue française. Compétence du Conseil de langue française L.R.O. 1980, chap. 129
- (4) À compter du 1<sup>er</sup> janvier 1989, les conseils de langue anglaise possèdent tous les pouvoirs et accomplissent toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les classes, les groupes de classes ou les écoles autres que les modules scolaires de langue française. Compétence des conseils de langue anglaise
- (5) À compter du 1<sup>er</sup> janvier 1989, les parties XI et XI-A de la *Loi sur l'éducation* ne s'appliquent pas aux conseils de langue anglaise. Enseignement en français

Composition  
of French-  
language  
Board

**3.—(1)** The French-language Board shall have a public sector and a Roman Catholic sector.

Full board

(2) The members of the public sector and the members of the Roman Catholic sector together constitute the full board.

Authority of  
public sector

(3) The public sector shall govern for the French-language Board the public schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of  
Roman  
Catholic  
sector

(4) The Roman Catholic sector shall govern for the French-language Board the Roman Catholic schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of  
full board

(5) The full board shall exercise the powers, duties and rights assigned to it by this Act.

## PART II

### JURISDICTION OF FULL BOARD AND SECTORS

Exclusive  
jurisdiction  
of sectors

**4.—(1)** The following matters are within the exclusive jurisdiction of the public sector in respect of public schools and classes and within the exclusive jurisdiction of the Roman Catholic sector in respect of the Roman Catholic schools and classes:

1. Planning, establishing and financing instructional units.
2. Administering and closing instructional units.
3. Planning, establishing, implementing and maintaining programs and courses for pupils enrolled in the instructional units.
4. Providing instructional and learning materials.
5. Schools for trainable retarded children and vocational courses.
6. Religious instruction and visitors to schools.
7. Admitting pupils and entering into agreements with other boards and with the other sector concerning the admission of pupils.

**3** (1) Le Conseil de langue française comprend une section publique et une section catholique.

Composition  
du Conseil  
de langue  
française

(2) Les membres de la section publique et les membres de la section catholique constituent ensemble le conseil plénier.

Conseil  
plénier

(3) La section publique gère, pour le Conseil de langue française, les écoles et les classes publiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat de  
la section  
publique

(4) La section catholique gère, pour le Conseil de langue française, les écoles et les classes catholiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat de  
la section  
catholique

(5) Le conseil plénier exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat du  
conseil  
plénier

## PARTIE II

### COMPÉTENCE DU CONSEIL PLÉNIER ET DES SECTIONS

**4** (1) Les questions suivantes relèvent de la compétence exclusive de la section publique relativement aux écoles et aux classes publiques, et de la compétence exclusive de la section catholique relativement aux écoles et aux classes catholiques :

Compétence  
exclusive des  
sections

1. La planification, la création et le financement de modules scolaires.
2. L'administration et la fermeture de modules scolaires.
3. La planification, la création, la mise en oeuvre et la poursuite de programmes et de cours à l'intention des élèves inscrits dans les modules scolaires.
4. L'approvisionnement en matériel pédagogique et d'apprentissage.
5. Les écoles pour enfants déficients moyens et les cours de formation professionnelle.
6. L'instruction religieuse et l'admission de visiteurs dans les écoles.
7. L'admission d'élèves et la conclusion d'ententes avec d'autres conseils et avec l'autre section relativement à l'admission d'élèves.

8. Issuing debentures.
9. Investing and borrowing money.
10. Receiving revenue for school purposes, including but not limited to grants and money from municipal levies.
11. Appointing, assigning and removing teachers and other employees in respect of matters within the sector's jurisdiction.
12. Appointing the secretary for the sector.
13. Prescribing the duties of teachers and other employees.
14. Any matter relating to meetings and records of the sector.
15. Advisory committees and special education advisory committees.
16. Counselling services.
17. Professional development of employees.
18. Establishing committees for the sector.
19. Determining the terms on which teachers and other employees are to be employed and fixing their salaries.
20. Collective bargaining in respect of teachers and other employees.
21. Providing transportation for pupils.
22. Providing school supplies other than instructional and learning materials.
23. Operating cafeterias for employees and pupils.
24. Providing benefits in respect of employees.
25. Providing administrative support services necessary to carry out a power or duty of the sector.

8. L'émission de débentures.
9. Le placement et l'emprunt de sommes d'argent.
10. L'obtention de revenus aux fins scolaires, y compris, notamment, les subventions et les sommes prélevées par les municipalités.
11. La nomination, l'affectation et la révocation d'enseignants et d'autres employés, à l'égard des questions relevant de la compétence de la section.
12. La nomination du secrétaire de la section.
13. La définition des fonctions des enseignants et des autres employés.
14. Les questions relatives aux réunions et aux dossiers de la section.
15. Les conseils consultatifs, et les conseils consultatifs pour l'enfance en difficulté.
16. Les services d'orientation.
17. Le perfectionnement professionnel des employés.
18. La création de comités pour la section.
19. L'établissement des conditions d'emploi des enseignants et des autres employés, et la fixation de leur salaire.
20. Les négociations collectives à l'égard des enseignants et des autres employés.
21. Le transport des élèves.
22. L'approvisionnement en fournitures scolaires, à l'exclusion du matériel pédagogique et d'apprentissage.
23. L'exploitation de cafétérias à l'usage des employés et des élèves.
24. Les avantages offerts aux employés.
25. La fourniture des services de soutien administratif nécessaires à l'exercice d'un pouvoir ou d'une fonction de la section.

26. Allowances for members.
27. Providing services of psychologists, psychometrists and language pathologists and other specialized services.
28. Maintenance of a media centre.
29. Any other matter not provided for in this Act.

Matters  
requiring  
approval by  
both sectors

(2) The following matters are within the exclusive jurisdiction of both sectors and require approval by a majority of members of each sector:

1. Appointing and removing the executive director, fixing his or her salary, providing his or her benefits, determining the terms of his or her employment and prescribing his or her duties.
2. Appointing and removing the auditor for the French-language Board.
3. Allocating to each of the sectors facilities required by them.

Exclusive  
jurisdiction  
of full board

(3) The following matters are within the exclusive jurisdiction of the full board:

1. Establishing and maintaining the head office for the French-language Board and providing administrative services operated from it.
2. Any matter related to meetings and records of the full board.
3. Establishing committees for the full board.
4. Maintaining buildings and premises and furniture and equipment for the French-language Board.
5. Providing all property and liability insurance for the French-language Board.
6. Appointing the treasurer for the French-language Board.
7. Appointing the secretary for the full board.



26. Les allocations versées aux membres.
27. La fourniture de services de psychologues, de psychométriciens et d'orthophonistes, et d'autres services spécialisés.
28. Le maintien d'un centre de médias.
29. Toute autre question qui n'est pas prévue par la présente loi.

(2) Les questions suivantes relèvent de la compétence exclusive des deux sections et nécessitent l'approbation de la majorité des membres de chaque section :

Questions nécessitant l'approbation des deux sections

1. La nomination et la révocation du directeur général, la fixation de son salaire, l'attribution de ses avantages et l'établissement de ses conditions d'emploi ainsi que la définition de ses fonctions.
2. La nomination et la révocation du vérificateur du Conseil de langue française.
3. L'affectation à chacune des sections des installations dont elle a besoin.

(3) Les questions suivantes relèvent de la compétence exclusive du conseil plénier :

Compétence exclusive du conseil plénier

1. La création et le maintien du siège social du Conseil de langue française et la fourniture des services qui y sont offerts.
2. Les questions relatives aux réunions et aux dossiers du conseil plénier.
3. La création de comités pour le conseil plénier.
4. L'entretien des bâtiments et lieux, de l'ameublement et de l'équipement du Conseil de langue française.
5. La souscription de toutes les assurances responsabilité et de toutes les assurances sur les biens du Conseil de langue française.
6. La nomination du trésorier du Conseil de langue française.
7. La nomination du secrétaire du conseil plénier.

8. Appointing and removing employees, other than the executive director, in respect of matters within the full board's jurisdiction.
9. Determining the terms on which employees described in paragraph 8 are to be employed, prescribing their duties, fixing their salaries and providing their benefits.
10. An allowance for the chairman of the full board.
11. Collective bargaining in respect of employees.
12. Professional development of employees.

Transfer of  
jurisdiction

(4) The public sector and the Roman Catholic sector may by majority resolutions of both sectors transfer the exclusive jurisdiction over part or all of any matter described in paragraphs 19 to 29 of subsection (1) from the sectors to the full board.

Idem

(5) A transfer of jurisdiction under subsection (4) may be made subject to any condition, if both resolutions so provide.

Reversion of  
jurisdiction

(6) Subject to subsection (7), the jurisdiction transferred to the full board is transferred back to the sectors at the end of the term of office of the members who resolved that it be transferred to the full board.

Idem

(7) The public sector or the Roman Catholic sector may by resolution transfer back to the sectors the exclusive jurisdiction over a matter transferred to the full board under subsection (4).

Idem

(8) The transfer of exclusive jurisdiction back to the sectors takes effect at the end of the fiscal year of the French-language Board unless the sectors by majority resolutions of both of them agree that it take effect on an earlier date.

Notice to  
Minister

(9) The secretary of the full board shall transmit to the Minister notice of a transfer of jurisdiction under subsection (4) or (7) forthwith after the transfer.

Failure to  
agree

(10) If the sectors do not agree on a matter described in subsection (2), they may resolve it in the manner provided by Part XI.

8. La nomination et la révocation des employés, autres que le directeur général, à l'égard des questions relevant de la compétence du conseil plénier.
9. L'établissement des conditions d'emploi des employés visés à la disposition 8, la définition de leurs fonctions, la fixation de leur salaire et l'attribution de leurs avantages.
10. L'allocation versée au président du conseil plénier.
11. Les négociations collectives à l'égard des employés.
12. Le perfectionnement professionnel des employés.

(4) La section publique et la section catholique peuvent, par voie de résolutions majoritaires des deux sections, transférer des sections au conseil plénier la compétence exclusive à l'égard d'une partie ou de la totalité d'une question décrite aux dispositions 19 à 29 du paragraphe (1). Transfert de compétence

(5) Le transfert de compétence visé au paragraphe (4) peut être assujéti à une condition si les deux résolutions le prévoient. Idem

(6) Sous réserve du paragraphe (7), la compétence transférée au conseil plénier est remise aux sections à la fin du mandat des membres qui ont décidé de la transférer au conseil plénier. Remise de compétence

(7) La section publique ou la section catholique peut, par voie de résolution, remettre aux sections la compétence exclusive à l'égard d'une question transférée au conseil plénier en vertu du paragraphe (4). Idem

(8) La remise de la compétence exclusive aux sections entre en vigueur à la fin de l'exercice du Conseil de langue française, à moins que les sections ne conviennent, par voie de résolutions majoritaires des deux, qu'il entre en vigueur à une date antérieure. Idem

(9) Le secrétaire du conseil plénier avise le ministre d'un transfert de compétence effectué en vertu du paragraphe (4) ou (7) immédiatement après le transfert. Avis au ministre

(10) Si les sections ne s'entendent pas sur une question décrite au paragraphe (2), elles peuvent la résoudre de la façon prévue à la partie XI. Défaut d'entente

Idem (11) Part XI does not apply to a matter described in subsection (4) or (8).

Agreements (12) If the subject-matter of an agreement to be made by the French-language Board is within the exclusive jurisdiction of,

(a) the full board, the agreement shall be made by the full board;

(b) the public sector or Roman Catholic sector, the agreement shall be made by the relevant sector.

Interpretation of provisions of R.S.O. 1980, c. 129

5.—(1) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the public sector, the Region shall be deemed to be a public school section and a secondary school district and the French-language instructional units of the public sector shall be deemed to be elementary schools and secondary schools, as the case may be, operated by a divisional board of education.

Idem R.S.O. 1980, c. 129

(2) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the Roman Catholic sector, the Region shall be deemed to be an urban separate school zone and the French-language instructional units of the Roman Catholic sector shall be deemed to be urban separate schools operated by a Roman Catholic school board.

Idem

(3) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the full board, the Region shall be deemed to be a public school section and a secondary school district and the full board shall be deemed to be a divisional board of education.

### PART III

#### SCHOOL ATTENDANCE

Application of R.S.O. 1980, c. 129

6. Sections 17 to 27 and 29 to 31 of the *Education Act* apply with necessary modifications to the French-language Board.

Resident pupil qualification, public sector

7.—(1) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the public sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

(11) La partie XI ne s'applique pas aux questions décrites aux paragraphes (4) et (8). Idem

(12) Si l'objet d'une entente que doit conclure le Conseil de langue française relève de la compétence exclusive : Ententes

- a) du conseil plénier, l'entente est conclue par ce dernier;
- b) de la section publique ou de la section catholique, l'entente est conclue par la section intéressée.

**5** (1) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section publique, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et les modules scolaires de langue française de la section publique sont réputés des écoles élémentaires et des écoles secondaires, selon le cas, qui relèvent d'un conseil de l'éducation de division scolaire. Interprétation des dispositions du chap. 129 des L.R.O. de 1980

(2) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section catholique, la Région est réputée une zone urbaine d'écoles séparées, et les modules scolaires de langue française de la section catholique sont réputés des écoles séparées urbaines qui relèvent d'un conseil d'écoles catholiques. Idem  
L.R.O. 1980,  
chap. 129

(3) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence du conseil plénier, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et le conseil plénier est réputé un conseil de l'éducation de division scolaire. Idem

### PARTIE III

#### FRÉQUENTATION SCOLAIRE

**6** Les articles 17 à 27 et 29 à 31 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application du chap. 129 des L.R.O. de 1980

**7** (1) Quiconque atteint six ans au cours d'une année satisfait, après le 1<sup>er</sup> septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section publique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas : Conditions requises pour être élève résident de la section publique

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a French-speaking person who is not a public school supporter, a separate school supporter or a supporter of the Roman Catholic sector;
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the public sector; or
- (c) the person is over eighteen years of age and has resided in the Region for the twelve months immediately before his or her admission to a school operated by the public sector or to a school operated by a board to which that sector pays fees on the person's behalf.

Resident  
pupil qualifi-  
cation,  
Roman  
Catholic  
sector

(2) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the Roman Catholic sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a supporter of that sector;
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the Roman Catholic sector; or
- (c) the person is over eighteen years of age and has resided in the Region for the twelve months immediately before his or her admission to a school operated by the Roman Catholic sector or to a school operated by a board to which that sector pays fees on the person's behalf.

Idem

(3) The requirement in subsection (1) or (2) that the person be less than twenty-one years of age does not apply for secondary school purposes.

Resident  
pupil

(4) A person who is qualified to be a resident pupil of a sector is a resident pupil if the person enrolls in a school operated by that sector or in a school operated by the other sector or a board to which the sector pays fees on the person's behalf.

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un francophone qui n'est pas contribuable des écoles publiques, des écoles séparées ni de la section catholique;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section publique;
- c) il a plus de dix-huit ans et a résidé dans la Région pendant les douze mois précédant son admission à une école qui relève de la section publique ou à une école qui relève d'un conseil auquel cette section verse des droits de scolarité en son nom.

(2) Quiconque atteint six ans au cours d'une année satisfait, après le 1<sup>er</sup> septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section catholique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions  
requises pour  
être élève  
résident de la  
section  
catholique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un contribuable de cette section;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section catholique;
- c) il a plus de dix-huit ans et a résidé dans la Région pendant les douze mois précédant son admission à une école qui relève de la section catholique ou à une école qui relève d'un conseil auquel cette section verse des droits de scolarité en son nom.

(3) La nécessité, prévue au paragraphe (1) ou (2), d'avoir moins de vingt et un ans ne s'applique pas aux fins des écoles secondaires.

Idem

(4) La personne qui satisfait aux conditions requises pour être élève résident d'une section est élève résident si elle s'inscrit dans une école qui relève de cette section ou dans une école qui relève de l'autre section ou d'un conseil auquel la section verse des droits de scolarité au nom de cette personne.

Élève  
résident

Evidence as to right to attend

(5) It is the responsibility of the parent or guardian to submit evidence that a child has a right to attend an elementary school operated by a sector, including proof of age, if necessary.

Admission if pupil moves into residence not assessed in accordance with school support

8. If a child who would otherwise have the right to attend an elementary school operated by one school system moves with his or her parent or guardian who is a supporter of that school system into a residence that is assessed to the support of another school system, and the latest date upon which the assessment of the residence may be changed to support of the first named school system has passed, upon the filing of a notice of change of support for the following year with the assessment commissioner, the child shall be admitted without the payment of a fee, to an elementary school operated by that school system.

Kindergarten, exceptional pupils  
R.S.O. 1980, c. 129

9.—(1) Sections 33 to 36 of the *Education Act* apply with necessary modifications to the French-language Board.

Accessible schools, right to attend

(2) Section 38 of the *Education Act* applies with necessary modifications to a pupil seeking to be admitted to,

- (a) a French-language instructional unit of a nearer school that is not in the Region, if the pupil is a resident pupil of a sector; and
- (b) a nearer school operated by a sector, if the pupil is a resident pupil in respect of a board that is not in the Region and is the child of a French-speaking person.

Admission of adult resident

(3) Subsection 39 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Other issues of admission

(4) Sections 40 to 48 of the *Education Act* apply with necessary modifications to the French-language Board.

Right to attend secondary school of other sector or board  
R.S.O. 1980, c. 129

(5) Section 1360 of the *Education Act* applies with necessary modifications to the French-language Board to permit,

- (a) a person to transfer between sectors of the French-language Board; and



(5) Il appartient au père, à la mère ou au tuteur de présenter les documents prouvant qu'un enfant a le droit de fréquenter une école élémentaire qui relève d'une section, y compris, le cas échéant, ceux qui attestent son âge.

Preuve du droit de fréquenter une école

8 Si un enfant qui aurait autrement le droit de fréquenter une école élémentaire relevant d'une organisation scolaire déménage avec son père, sa mère ou son tuteur qui est contribuable de cette organisation scolaire dans une résidence qui fait l'objet d'une cotisation en faveur d'une autre organisation scolaire et que la date ultime à laquelle la cotisation de cette résidence peut être changée en faveur de la première organisation scolaire mentionnée est passée, l'enfant est admis, dès le dépôt auprès du commissaire à l'évaluation d'un avis de changement de statut de contribuable pour l'année suivante, sans l'acquiescement de droits de scolarité, à une école élémentaire qui relève de cette organisation scolaire.

Admission d'un élève qui déménage dans une résidence dont la cotisation ne correspond pas au soutien scolaire

9 (1) Les articles 33 à 36 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Jardin d'enfants, élèves en difficulté  
L.R.O. 1980, chap. 129

(2) L'article 38 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'élève qui cherche à être admis :

Droit de fréquenter des écoles

- a) à un module scolaire de langue française d'une école plus proche qui n'est pas située dans la Région, si l'élève est élève résident d'une section;
- b) à une école plus proche relevant d'une section, si l'élève est élève résident à l'égard d'un conseil qui n'est pas situé dans la Région et si son père ou sa mère est francophone.

(3) Le paragraphe 39 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Admission d'un adulte résident

(4) Les articles 40 à 48 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Autres problèmes d'admission

(5) L'article 1360 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française afin de permettre :

Droit de fréquenter une école secondaire de l'autre section ou d'un autre conseil  
L.R.O. 1980, chap. 129

- a) le passage d'une personne d'une section à l'autre du Conseil de langue française;

- (b) a person who is the child of a French-speaking person to transfer between the French-language Board and the English-language boards.

Right to attend elementary school of sector

**10.**—(1) A person is entitled to be a pupil in an elementary school operated by the public sector if the person,

- (a) is qualified to be a resident pupil in respect of an elementary school operated by a public board in the Region; and
- (b) is the child of a French-speaking person.

Idem

(2) A person is entitled to be a pupil in an elementary school operated by the Roman Catholic sector if the person,

- (a) is qualified to be a resident pupil in respect of an elementary school operated by a separate school board in the Region; and
- (b) is the child of a French-speaking person.

Right to attend elementary school of board

(3) A person is entitled to be a pupil in an elementary school operated by a public board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of an elementary school operated by the public sector; and
- (b) resides in the area of jurisdiction of that public board.

Idem

(4) A person is entitled to be a pupil in an elementary school operated by a separate school board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of an elementary school operated by the Roman Catholic sector; and
- (b) resides in the area of jurisdiction of that separate school board.

- b) le passage d'une personne dont le père ou la mère est francophone du Conseil de langue française à un conseil de langue anglaise et vice versa.

**10** (1) Une personne a le droit d'être élève d'une école élémentaire qui relève de la section publique si :

Droit de fréquenter une école élémentaire d'une section

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école élémentaire qui relève d'un conseil public dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(2) Une personne a le droit d'être élève d'une école élémentaire qui relève de la section catholique si :

Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école élémentaire qui relève d'un conseil d'écoles séparées dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(3) Une personne a le droit d'être élève d'une école élémentaire qui relève d'un conseil public dans la Région si :

Droit de fréquenter une école élémentaire d'un conseil

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école élémentaire qui relève de la section publique;
- b) d'autre part, elle réside dans le ressort de ce conseil public.

(4) Une personne a le droit d'être élève d'une école élémentaire qui relève d'un conseil d'écoles séparées dans la Région si :

Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école élémentaire qui relève de la section catholique;
- b) d'autre part, elle réside dans le ressort de ce conseil d'écoles séparées.

Fee

(5) The board or sector in respect of which the child is qualified to be a resident pupil shall pay to the sector or board whose school the child attends a fee equal to the lesser of,

(a) the fee set by the board or sector; or

(b) the fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

Admission of  
pupils other  
than French-  
speaking  
pupils

**11.**—(1) If the parent or guardian of a child under the age of eighteen years is not a French-speaking person and the child would qualify to be a resident pupil of a sector if the child's parent or guardian were a French-speaking person, the parent or guardian may request that the child be admitted as a pupil of that sector.

Idem

(2) A person eighteen years of age or older who is not the child of a French-speaking person and who but for that fact would qualify to be a resident pupil of a sector may request to be admitted as a pupil of that sector.

Idem

(3) A sector, on receipt of a request under this section, may admit the person as a pupil if the admission is approved by a majority vote of an admissions committee appointed by the sector and composed of the principal of the school to which admission is sought, a teacher of that school and a supervisory officer employed by the sector.

Fees

(4) If a person is admitted as a pupil of a sector under this section, the board in which the person is qualified to be a resident pupil shall pay to the sector a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

Agreement  
with other  
sector

**12.**—(1) The Roman Catholic sector and the public sector may enter into an agreement to provide instruction of pupils of one sector in a school or schools operated by the other sector.

(5) Le conseil ou la section à l'égard duquel ou de laquelle l'enfant satisfait aux conditions requises pour être élève résident paie à la section ou au conseil dont relève l'école que l'enfant fréquente des droits de scolarité équivalant au moins des montants suivants :

Droits de scolarité

- a) les droits de scolarité fixés par le conseil ou la section;
- b) les droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

L.R.O. 1980, chap. 129

**11** (1) Si le père, la mère ou le tuteur d'un enfant âgé de moins de dix-huit ans n'est pas francophone et que cet enfant satisfait aux conditions requises pour être élève résident d'une section si son père, sa mère ou son tuteur était francophone, le père, la mère ou le tuteur peut demander que l'enfant soit admis comme élève de cette section.

Admission d'élèves non francophones

(2) La personne âgée de dix-huit ans ou plus dont ni le père ni la mère n'est francophone, et qui, si ce n'était ce fait, satisfait aux conditions requises pour être élève résident d'une section peut demander à être admise comme élève de cette section.

Idem

(3) La section qui reçoit une demande présentée en vertu du présent article peut admettre la personne comme élève, si l'admission est approuvée par un vote majoritaire d'un comité d'admission établi par la section et composé du directeur de l'école à laquelle l'admission est demandée, d'un enseignant de cette école et d'un agent de supervision employé par la section.

Idem

(4) Si une personne est admise comme élève d'une section en vertu du présent article, le conseil à l'égard duquel la personne satisfait aux conditions requises pour être élève résident paie à la section des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

L.R.O. 1980, chap. 129

**12** (1) La section catholique et la section publique peuvent conclure une entente en vue de dispenser l'enseignement aux élèves d'une section dans une ou plusieurs écoles qui relèvent de l'autre section.

Entente avec l'autre section

Fees

(2) The sector requesting instruction shall pay to the sector providing instruction a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

## PART IV

## FRENCH-LANGUAGE SCHOOL SUPPORT

Exemption of supporters from public school rates

**13.**—(1) Every person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns, who in any year becomes a supporter of the public sector or of the Roman Catholic sector, is exempt from the payment of all rates imposed on such land for public school purposes for the following year and every subsequent year while the person continues to be such a supporter with respect to such land.

Who may be supporters

(2) A person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns may be,

- (a) a supporter of the Roman Catholic sector, if the person is a French-speaking person and a Roman Catholic;
- (b) a supporter of the public sector, if the person is a French-speaking person.

Becoming a supporter

(3) A person becomes a supporter of the public sector or of the Roman Catholic sector in a year if the person is entitled under subsection (2) to be such a supporter and,

- (a) the person, acting alone or by an agent, before the return of the assessment roll in that year, gives to the assessment commissioner notice in writing that the person desires to be such a supporter;
- (b) in that year the person is shown as being such a supporter on the school support list as prepared or revised by the assessment commissioner under section 15 of the *Assessment Act*; or

(2) La section qui demande l'enseignement paie à la section qui le dispense des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

## PARTIE IV

### SOUTIEN SCOLAIRE DES ÉCOLES DE LANGUE FRANÇAISE

**13** (1) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient, et devient, au cours de l'année, contribuable de la section publique ou de la section catholique, est exempté du versement des cotisations scolaires perçues sur ce terrain aux fins des écoles publiques pour l'année suivante et les années ultérieures tant qu'il est contribuable de cette section en ce qui concerne ce terrain.

Exemption de cotisations scolaires aux fins des écoles publiques

(2) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient peut être :

Qui peut être contribuable

- a) contribuable de la section catholique s'il est francophone et catholique;
- b) contribuable de la section publique s'il est francophone.

(3) Une personne devient, au cours d'une année donnée, contribuable de la section publique ou de la section catholique si elle en a le droit en vertu du paragraphe (2) et si elle satisfait à l'une des conditions suivantes :

Comment on devient contribuable

- a) elle remet au commissaire à l'évaluation par écrit, avant la remise du rôle d'évaluation au cours de cette année, personnellement ou par l'intermédiaire de son représentant, un avis écrit de son désir d'être contribuable de cette section;
- b) cette année-là, elle figure à titre de contribuable de cette section sur la liste de soutien scolaire dressée ou révisée par le commissaire à l'évaluation en vertu de l'article 15 de la *Loi sur l'évaluation foncière*;

L.R.O. 1980, chap. 31

- (c) in that year the person is declared to be such a supporter as a result of a final decision rendered in proceedings commenced under the *Assessment Act*.

R.S.O. 1980,  
c. 31

Penalty for  
wilful false  
statements in  
notice

- (4) Any person who fraudulently gives a notice under this section or wilfully makes any false statement in it does not thereby secure an exemption from the rates and, in addition, is guilty of an offence.

As to rates  
imposed  
before  
French-  
language  
Board  
established

Notice of  
withdrawal of  
support

- (5) Nothing in this section exempts any person from paying any rate for public school purposes or separate school purposes imposed before this Act comes into force.

**14.**—(1) A person ceases to be a supporter of the public sector or of the Roman Catholic sector in a year if, on or before the return of the assessment roll in that year, the person gives to the assessment commissioner notice in writing that the person desires to withdraw that support for the following year.

Supporter for  
one system  
at a time

- (2) A person may be a supporter of only one school system at any given time.

Transitional,  
enumeration

**15.**—(1) This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

Idem

- (2) A person shall be deemed to have been enumerated as a supporter of the public sector if the person,

- (a) is enumerated as owning land in the Region or occupying land in the Region as a tenant;
- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board; and
- (c) is not deemed under subsection (3) to have been enumerated as a supporter of the Roman Catholic sector.



- c) cette année-là, elle est déclarée contribuable de cette section par suite d'une décision définitive rendue dans une instance introduite en vertu de la *Loi sur l'évaluation foncière*.

L.R.O. 1980,  
chap. 31

(4) Quiconque donne frauduleusement un avis prévu au présent article ou y fait intentionnellement une fausse déclaration n'obtient pas d'exemption de cotisations scolaires. Il est en outre coupable d'une infraction.

Peine en cas de fausses déclarations intentionnelles dans l'avis

(5) Aucune disposition du présent article n'exempte une personne du versement, aux fins des écoles publiques ou des écoles séparées, des cotisations scolaires si l'imposition est antérieure à l'entrée en vigueur de la présente loi.

Imposition avant la création du Conseil de langue française

**14** (1) Une personne cesse d'être contribuable de la section publique ou de la section catholique au cours d'une année si elle remet au commissaire à l'évaluation, au plus tard au moment de la remise du rôle d'évaluation au cours de cette année, un avis écrit de son désir de retirer son soutien pour l'année suivante.

Avis de retrait de soutien

(2) Une personne peut être contribuable d'une seule organisation scolaire à la fois.

Contribuable d'une organisation à la fois

**15** (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*.

Disposition transitoire, recensement

(2) Une personne est réputée avoir été recensée comme contribuable de la section publique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme propriétaire d'un terrain dans la Région ou comme locataire et occupant d'un terrain dans la Région;
- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme contribuable de la section catholique.

Idem

(3) A person shall be deemed to have been enumerated as a supporter of the Roman Catholic sector if the person,

- (a) is enumerated as a Roman Catholic who chooses to be a separate school supporter; and
- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board.

Application  
of certain  
sections  
R.S.O. 1980,  
c. 129

**16.** Sections 123, 124 and 125 of the *Education Act*, which apply in respect of separate school support, also apply in the Region, with necessary modifications, in respect of support of the public sector and the Roman Catholic sector.

Definitions

**17.—(1)** In this section,

“organisation  
publique”

“public system” means a public school board in the Region and includes the public sector;

“organisation  
catholique”

“Roman Catholic system” means a separate school board in the Region and includes the Roman Catholic sector.

If multiple  
owners or  
tenants

(2) The following rules apply in determining the school support of two or more persons who together own land in the Region or occupy land in the Region as tenants:

1. If they all choose to support the same school system, they shall be supporters of that system.
2. If they all choose to support a Roman Catholic system, they shall be supporters of a Roman Catholic system.
3. If at least one of them chooses to support a public system, they shall be supporters of a public system.
4. If they all choose to support the French-language Board they shall be supporters of the French-language Board.

(3) Une personne est réputée avoir été recensée comme contribuable de la section catholique si elle satisfait aux conditions suivantes :

- a) elle est recensée comme catholique qui choisit d'être contribuable des écoles séparées;
- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil.

**16** Les articles 123, 124 et 125 de la *Loi sur l'éducation*, qui s'appliquent à l'égard du soutien des écoles séparées, s'appliquent également, avec les adaptations nécessaires, dans la Région à l'égard du soutien de la section publique et de la section catholique.

Idem  
Champ d'application de certains articles  
L.R.O. 1980, chap. 129

**17** (1) Les définitions qui suivent s'appliquent au présent article.

Définitions

«organisation catholique» S'entend d'un conseil d'écoles séparées dans la Région, y compris la section catholique.

«Roman Catholic system»

«organisation publique» S'entend d'un conseil d'écoles publiques dans la Région, y compris la section publique.

«public system»

(2) Les règles suivantes s'appliquent pour déterminer le soutien scolaire de deux ou plusieurs personnes qui, ensemble, sont propriétaires d'un terrain dans la Région ou locataires et occupants d'un terrain dans la Région :

Plusieurs propriétaires ou locataires

1. Si elles choisissent toutes d'être contribuables de la même organisation scolaire, elles sont contribuables de cette organisation.
2. Si elles choisissent toutes d'être contribuables d'une organisation catholique, elles sont contribuables d'une organisation catholique.
3. Si au moins l'une d'elles choisit d'être contribuable d'une organisation publique, elles sont contribuables d'une organisation publique.
4. Si elles choisissent toutes d'être contribuables du Conseil de langue française, elles sont contribuables du Conseil de langue française.

5. If at least one of them chooses to support an English-language board they shall be supporters of the English-language board.

Definitions

**18.—(1)** In this section,

“évaluation” “assessment”, in respect of a corporation, means the assessment of land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the business or other assessments of the corporation made under the *Assessment Act*;

R.S.O. 1980,  
c. 31

“personnes  
admissibles”

“eligible persons” means,

- (a) persons who are Roman Catholic, in the case of the separate schools,
- (b) French-speaking persons, in the case of the public sector, and
- (c) French-speaking persons who are Roman Catholic, in the case of the Roman Catholic sector.

School  
support, right  
of  
corporation

(2) A corporation by notice to the assessment commissioner may require the whole or any part of its assessment to be entered, rated and assessed for the purposes of separate schools, the public sector, the Roman Catholic sector or any combination of them.

Copy of  
notice to  
clerk

(3) The assessment commissioner shall thereupon forward a copy of the notice to the clerk of the area municipality in which the land referred to in the notice is situate.

Duty of  
assessment  
commissioner

(4) Upon receipt of the notice, the assessment commissioner shall enter the corporation on the assessment roll to be next returned with the school support with respect to its assessment for each school system designated in the notice entered separately.

Idem

(5) The assessment commissioner shall separately enter and assess for public school purposes any assessment not designated in the notice.

Duty of clerk

(6) Upon receipt of the notice from the assessment commissioner, the clerk shall enter the corporation in the collector's roll with the school support with respect to the corporation's assessment for each school system designated in the notice entered separately.

5. Si au moins l'une d'elles choisit d'être contribuable d'un conseil de langue anglaise, elles sont contribuables du conseil de langue anglaise.

**18** (1) Les définitions qui suivent s'appliquent au présent article. Définitions

«évaluation» En ce qui concerne une personne morale, s'entend de l'évaluation des biens-fonds dont la personne morale est le propriétaire et l'occupant ou, si elle n'en est pas le propriétaire, dont elle est le locataire, l'occupant ou le possesseur de fait, et des évaluations commerciales ou autres de la personne morale effectuées en vertu de la *Loi sur l'évaluation foncière*. «assessment»  
L.R.O. 1980, chap. 31

«personnes admissibles» S'entend des personnes suivantes : «eligible persons»

- a) les catholiques, dans le cas des écoles séparées;
- b) les francophones, dans le cas de la section publique;
- c) les francophones catholiques, dans le cas de la section catholique.

(2) Une personne morale peut, au moyen d'un avis envoyé au commissaire à l'évaluation, demander que la totalité ou une partie de son évaluation soit inscrite, imposée et évaluée aux fins des écoles séparées, de la section publique, de la section catholique ou d'une combinaison quelconque de celles-ci. Droit des personnes morales en matière de soutien scolaire

(3) Le commissaire à l'évaluation envoie alors une copie de l'avis au secrétaire de la municipalité de secteur où se trouvent les biens-fonds visés dans l'avis. Copie de l'avis au secrétaire

(4) Dès qu'il reçoit l'avis, le commissaire à l'évaluation inscrit la personne morale au prochain rôle d'évaluation qui doit être rendu, en indiquant séparément le soutien scolaire relatif à son évaluation à accorder à chaque organisation scolaire désignée dans l'avis. Obligation du commissaire à l'évaluation

(5) Le commissaire à l'évaluation, aux fins des écoles publiques, inscrit et évalue séparément les évaluations qui ne sont pas désignées dans l'avis. Idem

(6) Dès qu'il reçoit l'avis du commissaire à l'évaluation, le secrétaire inscrit la personne morale au rôle du percepteur, en indiquant séparément le soutien scolaire relatif à l'évaluation de la personne morale à accorder à chaque organisation scolaire désignée dans l'avis. Obligation du secrétaire

Idem (7) The clerk shall separately enter and show as assessed for public school purposes any assessment not designated in the notice.

How proportion settled (8) The share or portion of a corporation's assessment rated and assessed to a school system other than a public school board shall not bear a greater proportion to the corporation's whole assessment than the amount of stock or shares held by eligible persons bears to the whole amount of the stock or shares.

Notices: effect, filing and search R.S.O. 1980, c. 129 (9) Subsections 126 (6), (7) and (8) of the *Education Act* apply with necessary modifications to the French-language Board and the English-language boards.

Secondary school purposes (10) This section applies in the same manner for secondary school purposes as for elementary school purposes.

## PART V

### ELECTORS FOR THE FRENCH-LANGUAGE BOARD

Electors for public sector R.S.O. 1980, c. 308 **19.** A French-speaking person who is qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the public sector if the person,

- (a) is a supporter of the public sector;
- (b) is the spouse of a supporter of the public sector;
- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the public sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), is enumerated as an elector for the public sector.

Electors for Roman Catholic sector **20.** A French-speaking person who is a Roman Catholic and qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the Roman Catholic sector if the person,

(7) Le secrétaire inscrit et indique séparément comme étant évaluées aux fins des écoles publiques les évaluations qui ne sont pas désignées dans l'avis. Idem

(8) La part ou la partie de l'évaluation d'une personne morale imposée et évaluée aux fins d'une organisation scolaire autre qu'un conseil d'écoles publiques ne doit pas représenter une fraction de l'évaluation totale de la personne morale qui est supérieure au rapport qui existe entre le montant des actions détenues par des personnes admissibles et le montant total des actions. Rapport

(9) Les paragraphes 126 (6), (7) et (8) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française et aux conseils de langue anglaise. Avis : validité, classement et recherche L.R.O. 1980, chap. 129

(10) Le présent article s'applique de la même façon aux fins des écoles secondaires qu'à celles des écoles élémentaires. Fins des écoles secondaires

## PARTIE V

### ÉLECTEURS DU CONSEIL DE LANGUE FRANÇAISE

**19** Un francophone qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section publique si, selon le cas : Électeurs de la section publique L.R.O. 1980, chap. 308

- a) il est contribuable de la section publique;
- b) il est le conjoint d'un contribuable de la section publique;
- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section publique;
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il est recensé comme électeur de la section publique.

**20** Un francophone qui est catholique et qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section catholique si, selon le cas : Électeurs de la section catholique

- (a) is a supporter of the Roman Catholic sector;
- (b) is the spouse of a supporter of the Roman Catholic sector;
- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the Roman Catholic sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), is enumerated as an elector for the Roman Catholic sector.

R.S.O. 1980,  
c. 308

Prohibition

**21.** No person is entitled to vote in a regular election in an area municipality both for members of a sector and for members of another sector or a board under the *Education Act*.

Transitional,  
enumeration

R.S.O. 1980,  
c. 31

**22.—(1)** This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

Idem

(2) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the public sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is not deemed under subsection (3) to have been enumerated as an elector for the Roman Catholic sector.

Idem

(3) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the Roman Catholic sector if the person,



- a) il est contribuable de la section catholique;
- b) il est le conjoint d'un contribuable de la section catholique;
- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section catholique;
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il est recensé comme électeur de la section catholique.

L.R.O. 1980,  
chap. 308

**21** Dans une élection ordinaire qui se déroule dans une municipalité de secteur, nul n'a le droit de voter à la fois pour les membres d'une section et pour les membres d'une autre section ou d'un conseil aux termes de la *Loi sur l'éducation*.

Interdiction

**22** (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*.

Disposition  
transitoire,  
recensement  
L.R.O. 1980,  
chap. 31

(2) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section publique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*;
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme électeur de la section catholique.

L.R.O. 1980,  
chap. 308

(3) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section catholique si elle satisfait aux conditions suivantes :

Idem

- R.S.O. 1980,  
c. 308
- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is enumerated as a Roman Catholic who chooses to be a separate school elector.

## PART VI

### DUTIES AND POWERS OF FRENCH-LANGUAGE BOARD

Duties and powers under R.S.O. 1980, c. 129

**23.**—(1) Section 149, except paragraphs 1 and 2, and section 150 of the *Education Act* apply with necessary modifications to the French-language Board.

Application of sections in Part VI of R.S.O. 1980, c. 129

(2) Sections 151 (scholarships), 152 and 153 (vocational courses), 154 to 158 (benefits), 159 to 165a (agreements), 166 (transportation), 167 (allowances), 169 to 172 (property) and 173 (out-of-classroom programs) of the *Education Act* apply with necessary modifications to the French-language Board.

Appointment of treasurer

**24.**—(1) There shall be one treasurer for the French-language Board.

Take proper security

(2) The full board shall take proper security from the treasurer.

Powers and duties of treasurer R.S.O. 1980, c. 129

(3) The provisions of the *Education Act* concerning the powers and duties of a treasurer of a board apply with necessary modifications to the treasurer in respect of the full board, the Roman Catholic sector and the public sector as if they all were boards.

Secretary for full board

**25.**—(1) The full board shall appoint a secretary for the matters within its jurisdiction.

Secretaries for sectors

(2) The Roman Catholic sector shall appoint a secretary for matters within its jurisdiction and the public sector shall appoint a secretary for matters within its jurisdiction.

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*; L.R.O. 1980, chap. 308
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle est recensée comme catholique qui choisit d'être électeur des écoles séparées.

## PARTIE VI

### FONCTIONS ET POUVOIRS DU CONSEIL DE LANGUE FRANÇAISE

**23** (1) L'article 149, à l'exclusion des dispositions 1 et 2, et l'article 150 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Fonctions et pouvoirs en vertu du chap. 129 des L.R.O. de 1980

(2) Les articles 151 (bourses d'études), 152 et 153 (cours de formation professionnelle), 154 à 158 (avantages), 159 à 165a (ententes), 166 (transport), 167 (allocations), 169 à 172 (biens) et 173 (programmes périscolaires) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application de certains articles de la partie VI du chap. 129 des L.R.O. de 1980

**24** (1) Le Conseil de langue française a un seul trésorier. Nomination d'un trésorier

(2) Le conseil plénier obtient une sûreté suffisante du trésorier. Obtention d'une sûreté suffisante

(3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du trésorier d'un conseil s'appliquent, avec les adaptations nécessaires, au trésorier relativement au conseil plénier, à la section catholique et à la section publique comme s'ils étaient tous des conseils. Pouvoirs et fonctions du trésorier L.R.O. 1980, chap. 129

**25** (1) Le conseil plénier nomme un secrétaire pour les questions qui relèvent de sa compétence. Secrétaire du conseil plénier

(2) La section catholique nomme un secrétaire pour les questions qui relèvent de sa compétence et la section publique nomme un secrétaire pour les questions qui relèvent de la sienne. Secrétaires des sections

Powers and  
duties of  
secretary

(3) The provisions of the *Education Act* concerning the powers and duties of a secretary of a board apply with necessary modifications to the secretary of the full board and the secretaries of each sector as if the full board and each of the sectors were boards.

Application  
of certain  
sections of  
R.S.O. 1980,  
c. 129

(4) Sections 183 (access to meetings and records), 184 (board meetings), 186 (arbitrators), 187 to 193 (offences and penalties) and 194 (validity of elections) of the *Education Act* apply with necessary modifications to the French-language Board.

Declaration  
and oath

(5) Section 185 of the *Education Act* applies with necessary modifications to the public sector and the Roman Catholic sector as if they both were boards.

Roman  
Catholic  
sector,  
secondary  
education  
R.S.O. 1980,  
c. 129

**26.** The Roman Catholic sector has all the powers and shall perform all the duties that the *Education Act* confers or imposes on a secondary school board.

English as a  
subject of  
instruction

**27.—(1)** English shall be a subject of instruction in grades 5, 6, 7 and 8 in every school or class operated by the French-language Board.

Idem

(2) English may be a subject of instruction in any grade other than grades 5, 6, 7 and 8 in a school or class operated by the French-language Board.

## PART VII

### BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS, VACANCIES

Employees  
disqualified

**28.** An employee of the French-language Board is not eligible to be elected a member of the public sector or the Roman Catholic sector or entitled to sit or vote on either of them.

Qualifications  
of members  
of sectors

**29.—(1)** A person is qualified to be elected as a member of the Roman Catholic sector or of the public sector if the person is an elector for that sector and resides in the Region.

(3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du secrétaire d'un conseil s'appliquent, avec les adaptations nécessaires, au secrétaire du conseil plénier et au secrétaire de chacune des sections comme si le conseil plénier et chacune des sections étaient des conseils.

Pouvoirs et fonctions du secrétaire

(4) Les articles 183 (réunions publiques et accès aux archives), 184 (réunions du conseil), 186 (arbitres), 187 à 193 (infractions et amendes) et 194 (validité des élections) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Champ d'application de certains articles du chap. 129 des L.R.O. de 1980

(5) L'article 185 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Déclaration et serment

**26** La section catholique possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil d'écoles secondaires.

Section catholique, enseignement secondaire  
L.R.O. 1980, chap. 129

**27** (1) Dans toutes les écoles ou les classes qui relèvent du Conseil de langue française, l'anglais est une matière d'enseignement en 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années.

Anglais en tant que matière d'enseignement

(2) Dans une école ou une classe qui relève du Conseil de langue française, l'anglais peut être une matière d'enseignement dans les années autres que les 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années.

Idem

## PARTIE VII

### MEMBRES DU CONSEIL—ÉLIGIBILITÉ, DÉMISSIONS ET VACANCES

**28** Quiconque est employé par le Conseil de langue française ne peut pas être membre de la section publique ou de la section catholique. Il ne peut pas siéger au sein de l'une ou l'autre des sections, ni y voter.

Employés inéligibles

**29** (1) Une personne est éligible comme membre de la section catholique ou de la section publique si elle est électeur de cette section et qu'elle réside dans la Région.

Conditions d'éligibilité des membres des sections

- Idem (2) A person who is an elector for a sector in respect of an area for which one or more members of the sector are to be elected is qualified to be elected as a member of that sector for any area in the Region if the person is otherwise qualified under this section.
- Members eligible for re-election (3) A member of a sector is eligible for re-election if otherwise qualified.
- Dis-qualification R.S.O. 1980, c. 129 (4) Subsection 196 (3) of the *Education Act* applies with necessary modifications to the French-language Board.
- Qualification to act as member (5) A person is qualified to act as a member of a sector during the term for which he or she was elected so long as the person continues to hold the qualifications required for election as a member of the sector and does not become disqualified.
- Idem (6) A person is qualified to act as a member of the full board if the person is qualified to act as a member of the sector to which the person is elected.
- Person not to be candidate for more than one seat (7) Subsection 196 (5) of the *Education Act* applies with necessary modifications to the French-language Board.
- Members remaining in office, resignations **30.**—(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, at the first regular meeting of the sector after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the sector.
- Idem (2) If the office of a member of a sector becomes vacant and the remaining members do not constitute a majority of the members elected to the sector, a new election shall be held to fill the vacancy or vacancies.
- Notice (3) The secretary of the sector shall send a notice to the clerk of the relevant area municipality if an election is required under subsection (2).
- Term of office (4) A member of a sector appointed or elected under this section shall hold office for the remainder of the term of office of the membership of the sector.

- (2) Quiconque est électeur d'une section en ce qui concerne un secteur pour lequel un ou plusieurs membres d'une section doivent être élus est éligible comme membre de cette section dans un secteur quelconque de la Région s'il satisfait aux autres conditions prévues par le présent article. Idem
- (3) Un membre d'une section est rééligible s'il satisfait aux autres conditions d'éligibilité. Membres rééligibles
- (4) Le paragraphe 196 (3) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Inéligibilité L.R.O. 1980, chap. 129
- (5) Une personne peut agir à titre de membre d'une section pour la durée de son mandat tant qu'elle satisfait aux conditions d'éligibilité à titre de membre de la section et qu'elle n'est pas frappée d'incapacité. Conditions d'éligibilité pour agir à titre de membre
- (6) Une personne peut agir à titre de membre du conseil plénier si elle peut agir à titre de membre de la section dans laquelle elle est élue. Idem
- (7) Le paragraphe 196 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Interdiction de se porter candidat à plusieurs postes
- 30** (1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, lors de la première réunion ordinaire de la section tenue après que le poste est devenu vacant, une personne qui est éligible comme membre de la section. Membres qui demeurent en fonction, démissions
- (2) Si le poste d'un membre d'une section devient vacant et que le reste des membres ne constituent pas la majorité des membres élus, une nouvelle élection a lieu pour combler le ou les postes vacants. Idem
- (3) Le secrétaire de la section envoie un avis au secrétaire de la municipalité de secteur intéressée si une élection est nécessaire aux termes du paragraphe (2). Avis
- (4) Le membre d'une section nommé ou élu en vertu du présent article demeure en fonction jusqu'à l'expiration du mandat des membres de la section. Mandat

If election held to fill vacancy

**31.**—(1) Despite subsection 30 (1), if a vacancy occurs in a sector on or before the 31st day of March of an election year, the sector may, by resolution, require that an election be held to fill the vacancy.

Idem

(2) If a sector requires an election to be held, the secretary of the sector shall forthwith send to the clerk of the appropriate area municipality a certified copy of the resolution.

Idem  
R.S.O. 1980,  
c. 308

(3) The provisions of the *Municipal Elections Act* that pertain to an election to fill a vacancy apply to an election under this section.

Vacancy near time of regular election  
R.S.O. 1980,  
c. 129

**32.** Section 202 of the *Education Act* applies with necessary modifications to the French-language Board.

Seat vacated by conviction

**33.** Section 206 of the *Education Act* applies with necessary modifications to the French-language Board.

Elections

**34.** The election of members of a sector shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

## PART VIII

### COMPOSITION OF FRENCH-LANGUAGE BOARD

Definition  
"groupe d'électeurs"

**35.**—(1) In this section, "electoral group", in respect of the Roman Catholic or public sector, means the persons who are resident in the Region and supporters or electors of that sector, and includes the persons who are dependants of those supporters or electors.

Preliminary calculation of number of members of full board

(2) The preliminary number of members of the French-language Board shall be calculated by the clerk of the Region and shall be equal to the number of members set out in column 2 of the following table opposite to the sum of the numbers of persons who are in the public sector electoral group or the Roman Catholic electoral group:



**31** (1) Malgré le paragraphe 30 (1), si une vacance survient au sein d'une section au plus tard le 31 mars d'une année d'élection, la section peut, par voie de résolution, exiger la tenue d'une élection pour combler le poste vacant.

Élection en vue de combler un poste vacant

(2) Si une section exige la tenue d'une élection, le secrétaire de la section envoie sans délai au secrétaire de la municipalité de secteur intéressée une copie certifiée conforme de la résolution.

Idem

(3) Les dispositions de la *Loi sur les élections municipales* qui concernent les élections tenues pour combler les postes vacants s'appliquent à une élection tenue en vertu du présent article.

Idem  
L.R.O. 1980,  
chap. 308

**32** L'article 202 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Vacance peu avant ou peu après une élection ordinaire  
L.R.O. 1980,  
chap. 129

**33** L'article 206 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Vacance d'un poste à la suite d'une condamnation

**34** L'élection des membres d'une section est tenue par les mêmes fonctionnaires et de la même façon que les élections des membres du conseil d'une municipalité.

Élections

## PARTIE VIII

### COMPOSITION DU CONSEIL DE LANGUE FRANÇAISE

**35** (1) Dans le présent article, l'expression «groupe d'électeurs», en ce qui concerne la section catholique ou la section publique, s'entend des personnes qui sont des résidents de la Région et qui sont contribuables ou électeurs de la section en question, y compris les personnes qui sont à la charge de ces contribuables ou électeurs.

Définition «electoral group»

(2) Le nombre préliminaire de membres du Conseil de langue française est calculé par le secrétaire de la Région et est égal au nombre de membres indiqué à la colonne 2 du tableau suivant, en regard du nombre total de personnes comprises dans le groupe d'électeurs de la section publique ou dans le groupe d'électeurs de la section catholique :

Calcul préliminaire du nombre de membres du conseil plénier

TABLE

COLUMN 1	COLUMN 2
Sum of populations of electoral groups	Number of members
Fewer than 5,000 persons	8
5,000 or more, up to and including 8,999 persons	10
9,000 or more, up to and including 14,999 persons	12
15,000 or more, up to and including 49,999 persons	14
50,000 or more, up to and including 115,999 persons	15
116,000 or more, up to and including 182,999 persons	17
183,000 or more, up to and including 282,999 persons	18
283,000 or more, up to and including 482,999 persons	19
483,000 or more persons	20

Number of  
members of  
sectors

(3) The number of members to be elected to each of the sectors by that sector's electors shall be calculated by the clerk of the Region using the following rules, which shall apply in order beginning with rule 1:

1. Make a preliminary calculation using the following formula:

$$\text{number of members of a sector} = \frac{a \times b}{c}$$

where a = the number of members of the French-language Board

TABLEAU

COLONNE 1	COLONNE 2
Total du nombre de personnes dans les groupes d'électeurs	Nombre de membres
Moins de 5 000 personnes	8
De 5 000 à 8 999 personnes inclusivement	10
De 9 000 à 14 999 personnes inclusivement	12
De 15 000 à 49 999 personnes inclusivement	14
De 50 000 à 115 999 personnes inclusivement	15
De 116 000 à 182 999 personnes inclusivement	17
De 183 000 à 282 999 personnes inclusivement	18
De 283 000 à 482 999 personnes inclusivement	19
À partir de 483 000 personnes	20

(3) Le nombre de membres que les électeurs de chaque section élisent est calculé par le secrétaire de la Région conformément aux règles suivantes, qui s'appliquent dans l'ordre, en commençant par la règle 1 :

Nombre de membres des sections

1. Effectuer un calcul préliminaire en utilisant la formule suivante :

$$\text{nombre de membres d'une section} = \frac{a \times b}{c}$$

dans laquelle a = le nombre de membres du Conseil de langue française

b = the population of that sector's electoral group

c = the sum of the populations of both sectors' electoral groups.

2. The calculation shall be correct to the nearest integer with the fraction one-half being raised to the next higher integer.
3. If the fraction one-half appears in the calculations for both sectors, the larger number shall be raised to the next higher integer and the smaller number shall not.
4. If the integer arrived at for either sector is less than seven, the number of members for that sector shall be increased to equal seven.

Number of members of French-language Board

(4) The preliminary number of members of the French-language Board shall be adjusted, if necessary, so that the number of members of the French-language Board shall be equal to the sum of the numbers of members for each sector.

Distribution of members

(5) After the calculations required by this section are made, a distribution of the members that represent each sector shall be made in accordance with subsection (6) by the clerk of the Region to,

- (a) the area municipalities or a combination of the area municipalities; or
- (b) the electoral areas established under subsection (8) or (9) or combination of such electoral areas in an area municipality.

Rules for distribution

(6) A distribution shall be made separately for each sector according to the following rules, which shall apply in order beginning with rule 1:

1. Calculate the electoral quotient for each municipality and electoral area using the following formula:

$$\text{electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the sector's electoral group resident in the municipality or electoral area

b = le nombre de personnes comprises dans le groupe d'électeurs de cette section

c = le nombre total de personnes comprises dans les groupes d'électeurs des deux sections.

2. Le calcul est effectué au nombre entier près, la fraction un demi étant portée au nombre entier supérieur.
3. Si la fraction un demi apparaît dans les calculs des deux sections, le nombre le plus grand est porté au nombre entier supérieur et le plus petit nombre ne l'est pas.
4. Si le nombre entier obtenu pour l'une ou l'autre des sections est inférieur à sept, le nombre de membres de cette section est porté à sept.

(4) Le nombre préliminaire de membres du Conseil de langue française est ajusté, au besoin, afin que le nombre de membres du Conseil de langue française soit égal au nombre total de tous les membres de chaque section.

Nombre de membres du Conseil de langue française

(5) Une fois effectué le calcul exigé par le présent article, le secrétaire de la Région procède, conformément au paragraphe (6), à la répartition des membres qui représentent chaque section :

Répartition des membres

- a) soit entre les municipalités de secteur ou une fusion de celles-ci;
- b) soit entre les secteurs électoraux établis en vertu du paragraphe (8) ou (9) ou une fusion de ces secteurs électoraux au sein d'une municipalité de secteur.

(6) Il est procédé à une répartition distincte pour chaque section conformément aux règles suivantes, qui s'appliquent dans l'ordre, en commençant par la règle 1 :

Règles de répartition

1. Calculer le quotient électoral de chaque municipalité et de chaque secteur électoral en utilisant la formule suivante :

$$\text{quotient électoral} = \frac{a \times b}{c}$$

b = the total number of members of the sector

c = the total population of the sector's electoral group.

2. The number of members that represent a sector for a municipality or electoral area shall be as nearly as possible its electoral quotient.
3. Two or more adjoining municipalities or two or more adjoining electoral areas within a municipality may be combined so that the sum of the electoral quotients of the municipalities or electoral areas so combined is as nearly as possible an integer.
4. The number of members that represent a sector for a combination of municipalities or for a combination of electoral areas within a municipality shall be as nearly as possible the sum of the electoral quotients of the municipalities or electoral areas so combined.

Election by  
general vote

(7) The members representing each sector for an area municipality shall be elected by general vote of the electors eligible to vote in that municipality for that sector unless the municipality is divided into electoral areas under subsection (8) or (9).

Electoral  
areas in a  
municipality

(8) For a regular election to be held in 1991 or thereafter, if the number of members representing a sector for an area municipality is two or more, the council of the municipality may, if so requested by the sector, by by-law divide the municipality into two or more electoral areas for the purposes of an election under the *Municipal Elections Act*.

R.S.O. 1980,  
c. 308

Idem

(9) For the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, if the number of members representing a sector for an area municipality is two or more, the Minister may by order divide the municipality into two or more electoral areas.

dans laquelle a = le nombre de personnes comprises dans le groupe d'électeurs de la section qui réside dans la municipalité ou le secteur électoral

b = le nombre total de membres de la section

c = le nombre total de personnes comprises dans le groupe d'électeurs de la section.

2. Le nombre de membres qui représentent une section pour une municipalité ou un secteur électoral est, autant que possible, son quotient électoral.
3. Deux ou plusieurs municipalités voisines, ou deux ou plusieurs secteurs électoraux voisins dans une municipalité peuvent être fusionnés afin que la somme des quotients électoraux des municipalités ou des secteurs électoraux ainsi fusionnés soit, autant que possible, un nombre entier.
4. Le nombre de membres qui représentent une section pour une fusion de municipalités ou pour une fusion de secteurs électoraux dans une municipalité est, autant que possible, la somme des quotients électoraux des municipalités ou des secteurs électoraux ainsi fusionnés.

(7) Les membres représentant chaque section pour une municipalité de secteur sont élus par scrutin général des électeurs habilités à voter dans cette municipalité pour cette section, à moins que la municipalité ne soit divisée en secteurs électoraux en vertu du paragraphe (8) ou (9).

Élection  
par scrutin  
général

(8) Pour une élection ordinaire qui doit se tenir en 1991 ou par la suite, si le nombre de membres représentant une section pour une municipalité de secteur est de deux ou plus, le conseil de la municipalité peut, si la section le lui demande, diviser, par voie de règlement municipal, la municipalité en deux ou plusieurs secteurs électoraux aux fins d'une élection aux termes de la *Loi sur les élections municipales*.

Secteurs  
électoraux  
dans une  
municipalité

L.R.O. 1980,  
chap. 308

(9) Aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour combler des postes vacants avant le 1<sup>er</sup> décembre 1991, si le nombre de membres représentant une section pour

Idem

Time  
for passing  
by-law

(10) A by-law referred to in subsection (8) and a by-law repealing any such by-law shall not be passed later than the 1st day of February in the year of a regular election under the *Municipal Elections Act* and shall take effect for the purpose of the regular election next following the passing of the by-law and remain in force until repealed.

Wards in  
electoral  
areas

(11) If an area municipality is divided into wards, an electoral area may include one or more wards but each ward shall be located entirely within the electoral area.

Election in  
combined  
municipalities

(12) If two or more area municipalities are combined for the election of one or more members who represent an electoral group, the member or members shall be elected by a general vote of the electors eligible to vote in the combined municipalities for those members.

Clerk to  
consult

(13) The clerk of the Region shall consult with the Director of Education of each sector before making a calculation or a distribution.

Copies

(14) The clerk of the Region shall send a copy of the calculations and distribution to the Minister, the clerk of each area municipality and the secretary of each sector.

Transition

(15) For the regular election to be held in 1988, the clerk of the Region,

(a) shall consult with the chairmen of the French-language education councils of the English-language boards under subsection (13) as if the chairmen were the directors of education of the sectors; and

(b) shall send the copy referred to in subsection (14) to the chairmen of the French-language education councils of the English-language boards as if the chairmen were the secretaries of the sectors.

Appeal

**36.**—(1) The council of any area municipality concerned may appeal the calculations made under subsections 35 (2) and (3) and the distribution made under subsection 35 (6) to a judge.



une municipalité de secteur est de deux ou plus, le ministre peut, par voie d'arrêté, diviser la municipalité en deux ou plusieurs secteurs électoraux.

(10) Un règlement municipal visé au paragraphe (8) et un règlement municipal l'abrogeant ne doivent pas être pris après le 1<sup>er</sup> février de l'année où a lieu une élection ordinaire aux termes de la *Loi sur les élections municipales*. Un tel règlement municipal entre en vigueur aux fins de la première élection ordinaire suivant son adoption et reste en vigueur jusqu'à son abrogation.

Date limite d'adoption d'un règlement municipal  
L.R.O. 1980, chap. 308

(11) Si une municipalité de secteur est divisée en quartiers, un secteur électoral peut comprendre un ou plusieurs quartiers, mais chaque quartier doit être entièrement situé dans le secteur électoral.

Quartiers au sein des secteurs électoraux

(12) Si deux ou plusieurs municipalités de secteur sont fusionnées pour l'élection d'un ou de plusieurs membres qui représentent un groupe d'électeurs, ce ou ces membres sont élus par scrutin général des électeurs habilités à voter pour ces membres dans les municipalités fusionnées.

Élection dans des municipalités fusionnées

(13) Le secrétaire de la Région consulte le directeur de l'éducation de chaque section avant de faire un calcul ou une répartition.

Le secrétaire consulte

(14) Le secrétaire de la Région envoie une copie du calcul et de la répartition au ministre, au secrétaire de chaque municipalité de secteur et au secrétaire de chaque section.

Copies

(15) Aux fins de l'élection ordinaire devant se tenir en 1988, le secrétaire de la Région :

Disposition transitoire

- a) consulte les présidents des conseils de l'enseignement en langue française des conseils de langue anglaise aux termes du paragraphe (13), comme s'ils étaient les directeurs de l'éducation des sections;
- b) envoie la copie visée au paragraphe (14) aux présidents des conseils de l'enseignement en langue française des conseils de langue anglaise, comme s'ils étaient les secrétaires des sections.

**36** (1) Le conseil d'une municipalité de secteur intéressée peut interjeter appel, auprès d'un juge, du calcul effectué en vertu des paragraphes 35 (2) et (3) et de la répartition faite en vertu du paragraphe 35 (6).

Appel

Appeal of  
distribution

(2) The council may appeal a distribution only if the distribution allots to the municipality, or to combined municipalities that include the municipality, a number of members to be elected for a sector that differs from the electoral quotient of the municipality or the sum of the electoral quotients for the combined municipalities by an amount that is greater than 0.05 times the electoral quotient.

Time for  
appeal

(3) An appeal shall be made within twenty days after the earlier of,

(a) five days after the clerk of the council receives the list of electors from the assessment commissioner; and

(b) the 5th day of August.

Time for  
decision

(4) The judge shall make a decision with respect to an appeal within thirty days after the appeal is made.

Decision of  
judge on  
appeal

(5) The judge on an appeal under this section may vary a calculation or distribution or confirm that it was made in accordance with section 35.

Idem

(6) The decision of a judge on an appeal is final and the clerk of the Region shall forthwith make whatever changes the judge requires.

If no appeal

(7) A sector shall be deemed to be properly constituted despite any defect in a calculation or distribution if an appeal is not made within the time referred to in subsection (3).

Application  
for  
calculation or  
distribution

**37.—**(1) The council of any area municipality concerned may apply to a judge to make any calculation or distribution or both that are required to be made under section 35 and are not made.

Time for  
application

(2) An application shall be made within twenty days after the earlier of,

(a) five days after the clerk of the council receives the list of electors from the assessment commissioner; and

(b) the 5th day of August.

Time for  
judge's  
decision

(3) The judge shall make the calculation or distribution or both within thirty days after the application is commenced.

(2) Le conseil peut interjeter appel d'une répartition seulement si celle-ci attribue à la municipalité, ou à des municipalités fusionnées qui comprennent la municipalité, un nombre de membres à élire pour une section qui diffère du quotient électoral de la municipalité ou de la somme des quotients électoraux des municipalités fusionnées d'un nombre qui est supérieur à 0,05 fois le quotient électoral.

Appel relatif à la répartition

(3) L'appel est interjeté dans les vingt jours qui suivent celui des deux jours suivants qui survient en premier lieu :

Délai d'appel

- a) cinq jours après que le secrétaire du conseil reçoit la liste des électeurs du commissaire à l'évaluation;
- b) le 5 août.

(4) Le juge rend sa décision à l'égard d'un appel dans les trente jours qui suivent l'interjection de l'appel.

Délai imparti pour rendre la décision

(5) Le juge saisi d'un appel prévu au présent article peut modifier le calcul ou la répartition, ou il peut confirmer que l'un ou l'autre a été fait conformément à l'article 35.

Décision du juge en appel

(6) La décision d'un juge en appel est définitive. Le secrétaire de la Région procède sans délai aux changements que le juge exige.

Idem

(7) Une section est réputée constituée en bonne et due forme malgré toute erreur dans un calcul ou une répartition si aucun appel n'est interjeté dans le délai imparti au paragraphe (3).

Défaut d'appel

**37** (1) Le conseil d'une municipalité de secteur intéressée peut demander à un juge, par voie de requête, de faire un calcul ou une répartition, ou les deux, qui doivent être faits aux termes de l'article 35 et qui n'ont pas été faits.

Requête en vue du calcul ou de la répartition

(2) La requête est présentée dans les vingt jours qui suivent celui des deux jours suivants qui survient en premier lieu :

Délai pour présenter une requête

- a) cinq jours après que le secrétaire du conseil reçoit la liste des électeurs du commissaire à l'évaluation;
- b) le 5 août.

(3) Le juge fait le calcul ou la répartition, ou les deux, dans les trente jours qui suivent la présentation de la requête.

Délai imparti au juge pour rendre une décision

Calculation  
or distri-  
bution final

(4) A calculation or distribution made by a judge under subsection (3) is not subject to appeal and shall be deemed to be a calculation or distribution made under section 35.

No  
calculation or  
distribution

(5) If a calculation or a distribution or both are not made or an application is made under this section and the judge does not deal with it within the time required by subsection (3), the calculation or distribution or both, as the case may be, in effect for the purposes of the last regular election under the *Municipal Elections Act* shall be deemed to be in effect for the purposes of the next regular election.

R.S.O. 1980,  
c. 308

Idem,  
transition

(6) For the regular election to be held in 1988, if a calculation or a distribution or both are not made or an application is made under this section and the judge does not deal with it within the time required by subsection (3), the Minister shall make the calculation or distribution or both, as the case may be.

## PART IX

### FINANCE

Appointment and  
dismissal  
of auditor

**38.—**(1) There shall be one auditor for the French-language Board and the auditor shall hold office during good behaviour and be removable for cause.

Qualifications  
R.S.O. 1980,  
c. 303

(2) The auditor shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

Powers and  
duties of  
auditor  
R.S.O. 1980,  
c. 129

(3) Subsections 207 (2) to (6) of the *Education Act* apply with necessary modifications to the auditor.

Filing of  
financial  
statements

(4) The treasurer in every year shall prepare the financial statements of the public sector and the Roman Catholic sector and, upon receiving the auditor's report on them, shall forthwith submit two copies of the financial statements together with a copy of the auditor's report to the Ministry.

Idem

(5) A financial statement for a sector shall indicate for each classification of expenditure the expenses of the full board allocated to the sector.

- (4) Une répartition ou un calcul fait par un juge en vertu du paragraphe (3) n'est pas susceptible d'appel et est réputé une répartition ou un calcul fait en vertu de l'article 35. Répartition ou calcul définitifs
- (5) Si un calcul ou une répartition, ou les deux, ne sont pas faits, ou qu'une requête est présentée, aux termes du présent article, à un juge qui ne donne pas suite à celle-ci dans le délai imparti au paragraphe (3), le calcul ou la répartition, ou les deux, selon le cas, qui sont en vigueur aux fins de la dernière élection ordinaire tenue aux termes de la *Loi sur les élections municipales* sont réputés en vigueur aux fins de l'élection ordinaire suivante. Défaut de calcul ou de répartition  
L.R.O. 1980, chap. 308
- (6) Aux fins de l'élection ordinaire devant se tenir en 1988, si un calcul ou une répartition, ou les deux, ne sont pas faits, ou qu'une requête est présentée, aux termes du présent article, à un juge qui ne donne pas suite à celle-ci dans le délai imparti au paragraphe (3), le ministre fait le calcul ou la répartition, ou les deux, selon le cas. Idem, disposition transitoire

## PARTIE IX

### FINANCES

- 38** (1) Le Conseil de langue française a un vérificateur qui occupe sa charge à titre inamovible, mais qui peut faire l'objet d'une destitution motivée. Nomination et destitution du vérificateur
- (2) Le vérificateur est une personne qui détient un permis pour exercer la charge de vérificateur municipal en vertu de la *Loi sur les affaires municipales*. Qualités requises  
L.R.O. 1980, chap. 303
- (3) Les paragraphes 207 (2) à (6) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au vérificateur. Pouvoirs et fonctions du vérificateur  
L.R.O. 1980, chap. 129
- (4) Chaque année, le trésorier prépare les états financiers de la section publique et de la section catholique. À la réception du rapport du vérificateur à ce sujet, il remet sans délai au ministère deux copies des états financiers ainsi qu'une copie du rapport du vérificateur. Dépôt des états financiers
- (5) Les états financiers d'une section indiquent, pour chaque catégorie de dépenses, les frais du conseil plénier affectés à la section. Idem

Publication  
of financial  
statements

(6) The treasurer of the French-language Board in every year shall, within one month after receiving the auditor's report on the financial statements of the sectors for the preceding year, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements for that ratepayer's sector for the preceding year in such form as the Minister may require, together with a copy of the report of the auditor.

Idem

(7) If in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy of the report under subsection (6), cause to be included in such notice the copy and the report.

Debentures  
R.S.O. 1980,  
c. 129

**39.**—(1) Section 208 of the *Education Act* applies with necessary modifications to the public sector as if it were a divisional board.

Borrowing  
powers

(2) Section 134 of the *Education Act* applies with necessary modifications to the Roman Catholic sector.

Estimates,  
full board

**40.**—(1) The full board in each year shall prepare and adopt estimates of all sums required in its area of jurisdiction during the year for elementary school purposes and for secondary school purposes respectively, and such estimates,

- (a) shall set forth its estimated expenditures including debt charges payable on its behalf; and
- (b) may provide for expenditures for permanent improvements of premises occupied by it.

Full board's  
estimates  
allocated to  
sectors

(2) The full board shall allocate its estimates to the public sector and to the Roman Catholic sector in the ratio that the average daily enrolment of pupils in the schools of the relevant sector is to the average daily enrolment of pupils in all of the schools of the French-language Board.

Full board's  
estimates  
forwarded to  
sectors

(3) The full board shall submit its estimates, together with the relevant allocations under subsection (2), to the sectors on or before the 15th day of February in each year.

Estimates,  
sectors  
R.S.O. 1980,  
c. 129

(4) Subsection 209 (1) of the *Education Act* applies with necessary modifications to the public sector in its area of jurisdiction as if it were a divisional board.

(6) Chaque année, dans un délai d'un mois à compter de la réception du rapport du vérificateur sur les états financiers des sections pour l'année précédente, le trésorier du Conseil de langue française fait publier, envoyer par la poste ou remettre à chaque contribuable une copie des états financiers de sa section pour l'année précédente selon la forme que peut exiger le ministre, ainsi qu'une copie du rapport du vérificateur.

Publication  
des états  
financiers

(7) Si, au cours d'une année, un avis d'impôt est envoyé à chaque contribuable avant le 30 juin, le trésorier peut, au lieu de publier, d'envoyer par la poste ou de remettre une copie du rapport comme le prévoit le paragraphe (6), faire annexer à cet avis la copie et le rapport.

Idem

**39** (1) L'article 208 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire.

Débitures  
L.R.O. 1980,  
chap. 129

(2) L'article 134 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section catholique.

Droit  
d'emprunt

**40** (1) Chaque année, le conseil plénier prépare et adopte les prévisions des sommes nécessaires dans son domaine de compétence au cours de l'année pour les besoins des écoles élémentaires et des écoles secondaires respectivement. Ces prévisions :

Prévisions,  
conseil  
plénier

- a) précisent les dépenses prévues pour le conseil plénier, y compris le service de la dette pour son compte;
- b) peuvent couvrir les dépenses en vue des améliorations permanentes des lieux que le conseil plénier occupe.

(2) Le conseil plénier affecte ses prévisions à la section publique et à la section catholique dans le rapport qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Prévisions du  
conseil plénier affectées  
aux sections

(3) Au plus tard le 15 février de chaque année, le conseil plénier présente aux sections ses prévisions, ainsi que les affectations appropriées visées au paragraphe (2).

Prévisions du  
conseil plénier présentées  
aux sections

(4) Le paragraphe 209 (1) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique dans son domaine de compétence comme s'il s'agissait d'un conseil de division scolaire.

Prévisions,  
sections  
L.R.O. 1980  
chap. 129

Estimates  
and rates,  
Roman  
Catholic  
sector

(5) Sections 127, 128, 130 to 133 and 136k of the *Education Act* apply with necessary modifications to the Roman Catholic sector.

Idem

(6) In 1989 the Roman Catholic sector shall use the same factors for the purposes of section 130 of the *Education Act* that a divisional board would use for an apportionment done under a regulation under section 214 of that Act.

Idem

(7) The estimates of a sector shall include the proportion of the estimates of the full board as allocated to it.

Statement of  
amounts to  
be raised

(8) The treasurer on behalf of the public sector shall submit to the council of each area municipality on or before the 1st day of March in each year,

(a) a statement indicating the amount of its estimates for elementary school purposes and for secondary school purposes to be raised by each council; and

(b) a requisition of the amount of the estimates for elementary school purposes and for secondary school purposes required to be raised by the council.

Provisions  
concerning  
estimates

(9) Subsections 209 (2) to (9) of the *Education Act* apply with necessary modifications to the public sector as if it were a divisional board.

Money not  
spent because  
of strike  
R.S.O. 1980,  
c. 129

**41.**—(1) Sections 210 and 212 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector.

Idem

(2) A reserve of a sector under subsection 210 (2) of the *Education Act* shall include the proportion of any amount allocated to it in relation to the salaries and wages of employees of the full board.

Apportion-  
ment

**42.** Section 214 of the *Education Act* applies with necessary modifications to the public sector as if it were a divisional board, the Region were its school division and the executive director were its chief executive officer.

Rates,  
payments to  
boards

**43.**—(1) Section 215 of the *Education Act* applies with necessary modifications to the French-language Board as if the public sector and the Roman Catholic sector were divisional boards and the Region were a school division.



(5) Les articles 127, 128, 130 à 133 et 136k de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section catholique.

Prévisions  
et impôts,  
section  
catholique

(6) En 1989, la section catholique utilise, pour l'application de l'article 130 de la *Loi sur l'éducation*, les mêmes facteurs qu'utiliserait un conseil de division scolaire dans une répartition effectuée conformément à un règlement pris en application de l'article 214 de cette loi.

Idem

(7) Les prévisions d'une section indiquent la proportion des prévisions du conseil plénier qui lui ont été affectées.

Idem

(8) Au plus tard le 1<sup>er</sup> mars de chaque année, le trésorier, au nom de la section publique, présente au conseil de chaque municipalité de secteur :

État des mon-  
tants devant  
être recueillis

- a) un état indiquant le montant de ses prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que chaque conseil doit recueillir;
- b) une demande du montant des prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que le conseil doit recueillir.

(9) Les paragraphes 209 (2) à (9) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire.

Dispositions  
relatives aux  
prévisions  
L.R.O. 1980,  
chap. 129

**41** (1) Les articles 210 et 212 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique.

Fonds non  
affectés en  
raison de  
grève

(2) La réserve d'une section visée au paragraphe 210 (2) de la *Loi sur l'éducation* comprend la proportion des sommes qui lui sont affectées relativement aux salaires et à la rémunération des employés du conseil plénier.

Idem

**42** L'article 214 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire, que la Région était sa division scolaire et que le directeur général était son chef de service administratif.

Répartition

**43** (1) L'article 215 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si la section publique et la section catholique étaient des conseils de division scolaire et que la Région était une division scolaire.

Versement  
des impôts  
aux conseils

First payment (2) The amounts to be used for the calculation under paragraph 1 of subsection 215 (2) of the *Education Act* on the 31st day of March, 1989 shall be determined by the Minister.

Application (3) A determination of the Minister under subsection (2) is not a regulation within the meaning of the *Regulations Act*.  
R.S.O. 1980, c. 446

Tax notices, accounting for money (44.—(1) Section 216 of the *Education Act* applies with necessary modifications in respect of the French-language Board.  
R.S.O. 1980, c. 129

Current borrowing, when fees payable, reduction of requisition (2) Sections 217, 218 and 219 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector as if both of them were boards.

Payment of expenses of full board (3) A sector shall make funds available to provide for payment of the proportion of the expenses of the full board allocated to it.

Borrowing by one sector from another (4) If money is borrowed from public sector funds for Roman Catholic sector purposes or from Roman Catholic sector funds for public sector purposes, the borrowing sector shall pay interest to the fund from which the money is borrowed at a rate not less than that being earned by the fund at the date of borrowing.

Data furnished, determination of rates (45.—(1) Sections 220 and 221 and subsections 222 (1) and (2) of the *Education Act* apply with necessary modifications in respect of the public sector and the Roman Catholic sector as if both of them were boards.  
R.S.O. 1980, c. 129

Idem (2) The Roman Catholic sector shall determine the rates to be levied for its purposes.

Assessments for school purposes (3) The clerk of each area municipality shall prepare the following particulars:

1. The commercial assessment for the purposes of the public sector.
2. The residential and farm assessment for the purposes of the public sector.
3. The commercial assessment for the purposes of the Roman Catholic sector.

(2) Le ministre décide des montants à utiliser pour le calcul effectué en vertu de la disposition 1 du paragraphe 215 (2) de la *Loi sur l'éducation* le 31 mars 1989.

Premier versement

(3) La décision du ministre visée au paragraphe (2) ne constitue pas un règlement au sens de la *Loi sur les règlements*.

Champ d'application  
L.R.O. 1980, chap. 446

**44** (1) L'article 216 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française.

Avis d'impôt, reddition de comptes  
L.R.O. 1980, chap. 129

(2) Les articles 217, 218 et 219 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Emprunt courant, droits payables, réduction des demandes

(3) La section prévoit des fonds pour le paiement de la partie des dépenses du conseil plénier qui lui sont affectées.

Paiement des dépenses du conseil plénier

(4) S'il y a emprunt de sommes provenant d'un fonds de la section publique aux fins de la section catholique ou de sommes provenant d'un fonds de la section catholique aux fins de la section publique, la section qui emprunte paie des intérêts au fonds d'où proviennent les sommes empruntées à un taux qui n'est pas inférieur à celui dont bénéficie le fonds à la date de l'emprunt.

Emprunt à une section par l'autre

**45** (1) Les articles 220 et 221 et les paragraphes 222 (1) et (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard de la section publique et de la section catholique comme si elles étaient toutes les deux des conseils.

Renseignements fournis, calcul des impôts  
L.R.O. 1980, chap. 129

(2) La section catholique fixe les impôts qui sont prélevés à ses fins.

Idem

(3) Le secrétaire de chaque municipalité de secteur prépare ce qui suit :

Évaluations aux fins scolaires

1. L'évaluation des industries et des commerces aux fins de la section publique.
2. L'évaluation résidentielle et agricole aux fins de la section publique.
3. L'évaluation des industries et des commerces aux fins de la section catholique.

4. The residential and farm assessment for the purposes of the Roman Catholic sector.

Levying of school rates

**46.** The council of every area municipality shall levy or cause to be levied on the whole of the assessment for real property and business assessment for the purposes of the public sector and the Roman Catholic sector, according to the last revised assessment roll, the rates determined for each sector.

Share of licence fees for trailers  
R.S.O. 1980, c. 129

**47.** Section 227 of the *Education Act*, which applies in respect of separate school support, also applies in the Region with necessary modifications in respect of support of the public sector and the Roman Catholic sector.

Share of legislative grants

**48.**—(1) On and after the 1st day of January, 1989, the public sector and the Roman Catholic sector shall each share in the legislative grants under the *Education Act* in the same way as a public board.

Share of municipal grants  
R.S.O. 1980, c. 129

(2) On and after the 1st day of January, 1989, subsection 135 (2) of the *Education Act* applies with necessary modifications in respect of the schools governed by the public sector and the schools governed by the Roman Catholic sector in the same way that it applies to separate schools.

Special temporary grants

(3) The Lieutenant Governor in Council may provide for the payment to the public sector, to the Roman Catholic sector or to both of such special temporary grants as the Lieutenant Governor in Council considers appropriate.

Idem

(4) A grant under subsection (3) shall be paid out of money appropriated by the Legislature for educational purposes.

## PART X

### TEACHERS AND SUPERVISORY OFFICERS

Teachers  
R.S.O. 1980, c. 129

**49.** Part IX of the *Education Act* applies with necessary modifications to the French-language Board.

Qualifications of supervisory officers

**50.** Section 249 of the *Education Act* applies with necessary modifications to the French-language Board.

Director of education for public sector

**51.**—(1) The public sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

4. L'évaluation résidentielle et agricole aux fins de la section catholique.

**46** Le conseil de chaque municipalité de secteur prélève ou fait prélever sur la totalité de l'évaluation foncière et de l'évaluation commerciale aux fins de la section publique et de la section catholique, d'après le dernier rôle d'évaluation révisé, les impôts établis pour chaque section. Prélèvement des impôts

**47** L'article 227 de la *Loi sur l'éducation*, qui s'applique à l'égard du soutien des écoles séparées, s'applique également, avec les adaptations nécessaires, à l'égard du soutien de la section publique et de la section catholique. Partie des droits sur les roulottes  
L.R.O. 1980, chap. 129

**48** (1) À compter du 1<sup>er</sup> janvier 1989, la section publique et la section catholique reçoivent chacune une part des subventions générales accordées en vertu de la *Loi sur l'éducation* de la même façon qu'un conseil public. Part des subventions générales

(2) À compter du 1<sup>er</sup> janvier 1989, le paragraphe 135 (2) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard des écoles gérées par la section publique et des écoles gérées par la section catholique de la même façon qu'il s'applique aux écoles séparées. Part des subventions municipales

(3) Le lieutenant-gouverneur en conseil peut prévoir le paiement à la section publique ou à la section catholique, ou aux deux, des subventions spéciales et temporaires qu'il juge opportunes. Subventions spéciales et temporaires

(4) Les subventions accordées en vertu du paragraphe (3) sont prélevées sur les sommes affectées par la Législature aux fins de l'éducation. Idem

## PARTIE X

### ENSEIGNANTS ET AGENTS DE SUPERVISION

**49** La partie IX de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Enseignants  
L.R.O. 1980, chap. 129

**50** L'article 249 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Qualification requise des agents de supervision

**51** (1) La section publique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*. Directeur de l'éducation pour la section publique

Director of education for Roman Catholic sector  
R.S.O. 1980, c. 129

(2) The Roman Catholic sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Duties of directors of education

(3) The director of education for a sector shall be responsible to that sector for the development, implementation, operation and supervision of education programs in the French-language instructional units operated by that sector.

Chief executive officer of sectors

(4) Section 253 of the *Education Act* applies with necessary modifications to the directors of education of the sectors.

Executive director of full board

**52.**—(1) The full board shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its executive director.

Idem

(2) The executive director is the chief executive officer of the full board.

Application of certain sections of R.S.O. 1980, c. 129

(3) Subsections 253 (2) and (3) of the *Education Act* apply with necessary modifications to the executive director of the full board.

Appointment of supervisory officers

**53.**—(1) Sections 254 and 255 of the *Education Act* apply with necessary modifications to the French-language Board.

Duties of supervisory officers

(2) Section 256 of the *Education Act* applies with necessary modifications to the French-language Board.

Sharing supervisory officer

(3) Despite subsection 256 (4) of the *Education Act*, the Roman Catholic sector, the public sector and the full board or any two of them may enter into an agreement with one another to share the services of a supervisory officer.

Suspension or dismissal of supervisory officer

(4) Section 257 of the *Education Act* applies with necessary modifications to the French-language Board.

Abolition of position

(5) The French-language Board shall not abolish the position of a supervisory officer without the approval of the Minister.

- (2) La section catholique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*. Directeur de l'éducation pour la section catholique  
L.R.O. 1980, chap. 129
- (3) Le directeur de l'éducation d'une section est responsable, devant cette section, de l'élaboration, de la mise en oeuvre, de l'application et de la supervision des programmes d'éducation dans les modules scolaires de langue française qui relèvent de cette section. Fonctions des directeurs de l'éducation
- (4) L'article 253 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, aux directeurs de l'éducation des sections. Chef de service administratif des sections
- 52** (1) Le conseil plénier nomme à titre de directeur général une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*. Directeur général du conseil plénier
- (2) Le directeur général est le chef de service administratif du conseil plénier. Idem
- (3) Les paragraphes 253 (2) et (3) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au directeur général du conseil plénier. Champ d'application de certaines dispositions du chap. 129 des L.R.O. de 1980
- 53** (1) Les articles 254 et 255 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Nomination des agents de supervision
- (2) L'article 256 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Fonctions des agents de supervision
- (3) Malgré le paragraphe 256 (4) de la *Loi sur l'éducation*, la section catholique, la section publique et le conseil plénier, ou deux d'entre eux, peuvent conclure une entente en vue de se partager les services d'un agent de supervision. Partage d'un agent de supervision
- (4) L'article 257 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Suspension ou congédiement d'un agent de supervision
- (5) Le Conseil de langue française ne doit pas abolir le poste d'un agent de supervision sans l'approbation du ministre. Abolition de poste

## PART XI

## RESOLUTION OF DISPUTES

Notice  
requiring  
resolution

**54.**—(1) If this Act provides that the exercise of a power, duty or right requires approval by both sectors, and the sectors do not agree on how to exercise it, either sector may by notice in writing to the other sector and to the Commission require that the matter be resolved under this Part.

Idem

(2) If this Act provides that a matter is to be resolved by agreement between the French-language Board or one of its sectors and one or more English-language boards and the time specified for making that agreement has elapsed without those parties reaching an agreement, the French-language Board shall by notice in writing to the other party or parties and to the Commission require that the matter be resolved under this Part.

Panel for  
disputes  
between  
sectors

**55.**—(1) If a matter is referred to the Commission under subsection 54 (1), the chairman of the Commission shall appoint a panel composed of three of its French-speaking members to act for it in respect of that matter and, in that case, references to the Commission in sections 56 to 60 shall be deemed to be references to the panel.

Idem

(2) The chairman shall appoint one of the members of the panel to chair it.

Commission  
to handle  
other  
disputes

(3) The Commission shall act as a whole in respect of a matter referred to it under subsection 54 (2).

Quorum

(4) If the Commission acts as a whole, a quorum consists of seven members of whom at least three shall be French-speaking and three English-speaking.

Person to  
chair  
Commission

(5) The chairman or a person designated by the chairman shall chair the Commission when it acts as a whole.

Parties  
appoint  
mediator

**56.**—(1) Forthwith after notice is given under section 54, the parties shall appoint a mediator to resolve their dispute and shall notify the Commission of the name and address of the mediator.

Referral to  
Commission

(2) If, after fourteen days after a party receives notice under section 54, the parties are unable to agree on the



## PARTIE XI

## RÉSOLUTION DES CONFLITS

**54** (1) Si la présente loi prévoit que l'exercice d'un pouvoir, d'une fonction ou d'un droit nécessite l'approbation des deux sections et que les sections ne s'entendent pas quant à l'exercice de ce pouvoir, de cette fonction ou de ce droit, l'une ou l'autre des sections peut, en remettant un avis écrit à l'autre section et à la Commission, demander que la question soit résolue en vertu de la présente partie.

Avis de  
demande de  
résolution

(2) Si la présente loi prévoit qu'une question doit être résolue au moyen d'une entente entre le Conseil de langue française ou une de ses sections et un ou plusieurs conseils de langue anglaise, et que le délai imparti pour conclure cette entente a expiré sans que ces parties soient arrivées à une entente, le Conseil de langue française remet un avis écrit à l'autre ou aux autres parties et à la Commission pour demander que la question soit résolue en vertu de la présente partie.

Idem

**55** (1) Si une question est renvoyée à la Commission en vertu du paragraphe 54 (1), le président de la Commission constitue un comité composé de trois des membres francophones de la Commission qui traite de la question au nom de celle-ci, et, dans ce cas, les renvois à la Commission aux articles 56 à 60 sont réputés des renvois au comité.

Comité  
chargé de  
résoudre les  
conflits

(2) Le président nomme l'un des membres du comité à la présidence.

Idem

(3) La Commission entière traite des questions qui lui sont renvoyées en vertu du paragraphe 54 (2).

La Commis-  
sion traite des  
autres conflits

(4) Si la Commission entière traite d'un conflit, le quorum est de sept membres, dont au moins trois francophones et au moins trois anglophones.

Quorum

(5) Lorsque la Commission entière traite d'un conflit, le président ou une personne qu'il désigne assume la présidence de la Commission.

Personne qui  
assume la  
présidence

**56** (1) Immédiatement après la remise de l'avis prévu à l'article 54, les parties nomment un médiateur pour résoudre leur conflit et avisent la Commission du nom et de l'adresse du médiateur.

Nomination  
d'un média-  
teur par les  
parties

(2) Si, au bout de quatorze jours après qu'une partie reçoit l'avis prévu à l'article 54, les parties n'arrivent pas à s'enten-

Renvoi à la  
Commission

appointment of a mediator, they shall refer the matter to the Commission for appointment of a mediator.

Commission  
appoints  
mediator

(3) The Commission shall appoint a mediator to resolve the dispute forthwith after the matter is referred to it.

Notice of  
appointment

(4) The Commission shall communicate the name and address of a mediator appointed under subsection (3) to the parties.

Remuner-  
ation

**57.**—(1) The parties shall pay the remuneration of the mediator in equal shares.

Idem

(2) A mediator appointed by the parties shall be paid such remuneration as is agreed upon between the mediator and the parties.

Idem

(3) A mediator appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not  
eligible as  
mediator

(4) The following persons shall not be appointed as a mediator:

1. A member of the Commission.
2. A member of the French-language Board or of an English-language board.
3. The spouse of a person mentioned in paragraph 1 or 2.

Duties of  
mediator

**58.**—(1) The mediator shall inquire into the matter referred for mediation, confer with the parties, endeavour to bring about an agreement and report to the parties and to the Commission concerning whether an agreement has been reached.

Time for  
mediation

(2) The mediator shall make the report under subsection (1) within twenty-one days after being appointed or within such longer period as the parties may agree or the Commission may approve.

Agreement

(3) If an agreement is reached, it shall be in writing and signed by all of the parties to it.

Arbitration  
board  
appointed by  
parties

**59.**—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are two parties to the dispute.

dre sur la nomination d'un médiateur, elles renvoient la question à la Commission en vue de faire nommer un médiateur.

(3) La Commission nomme un médiateur pour résoudre le conflit immédiatement après avoir été saisie de la question.

Nomination d'un médiateur par la Commission

(4) La Commission communique aux parties le nom et l'adresse du médiateur nommé en vertu du paragraphe (3).

Avis de nomination

**57** (1) Les parties paient à parts égales la rémunération du médiateur.

Rémunération

(2) Le médiateur nommé par les parties reçoit la rémunération dont il convient avec les parties.

Idem

(3) Le médiateur nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil.

Idem

(4) Les personnes suivantes ne doivent pas être nommées médiateur :

Inadmissibilité aux fonctions de médiateur

1. Un membre de la Commission.
2. Un membre du Conseil de langue française ou d'un conseil de langue anglaise.
3. Le conjoint d'une personne visée à la disposition 1 ou 2.

**58** (1) Le médiateur fait enquête sur la question soumise à sa médiation, s'entretient avec les parties, s'efforce de les faire arriver à une entente et présente aux parties et à la Commission un rapport indiquant si les parties sont arrivées à une entente.

Fonctions du médiateur

(2) Le médiateur présente le rapport prévu au paragraphe (1) dans les vingt et un jours qui suivent sa nomination ou dans un délai plus long dont les parties peuvent convenir ou que la Commission peut approuver.

Délai de médiation

(3) Si les parties arrivent à une entente, cette dernière est mise par écrit et signée par toutes les parties à cette entente.

Entente

**59** (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a deux parties au conflit.

Conseil d'arbitrage constitué par les parties

- Appointment of two members of arbitration board (2) Each party shall, within ten days of receiving the mediator's report, appoint a person to the arbitration board and notify the Commission of the appointment.
- If party fails to appoint a person (3) If one party fails to appoint a person within ten days of receiving the mediator's report, the other party shall forthwith notify the Commission of the fact, and the Commission shall appoint a person in the place of the first party.
- Chair (4) The two persons appointed to the arbitration board shall jointly appoint a third person to chair it and shall notify the Commission of the appointment.
- Idem (5) If the two persons appointed to the arbitration board do not appoint a third person within ten days of the appointment of the second one of them, the Commission shall appoint a third person to chair the arbitration board.
- Remuneration (6) The parties shall pay the remuneration of the members of the arbitration board in equal shares.
- Idem (7) A member appointed by a party shall be paid such remuneration as is agreed upon between them.
- Idem (8) A member appointed by the other members shall be paid such remuneration as is agreed upon between him or her and the parties.
- Idem (9) A member appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- Duty of arbitration board (10) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of the appointment of the third person.
- Majority decision (11) The decision of a majority of the members of the arbitration board is the board's decision.
- Decision final (12) The arbitration board's decision is final and binding upon the parties.
- R.S.O. 1980, c. 25 does not apply (13) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.

- (2) Dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, chaque partie nomme une personne au conseil d'arbitrage et en avise la Commission. Nomination de deux membres du conseil d'arbitrage
- (3) Si une partie ne nomme personne dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, l'autre partie en avise la Commission sans délai et cette dernière nomme une personne à la place de la première partie. Cas où une partie ne nomme personne
- (4) Les deux personnes nommées au conseil d'arbitrage nomment ensemble une troisième personne à la présidence et en avisent la Commission. Présidence
- (5) Si les deux personnes nommées au conseil d'arbitrage ne nomment pas une troisième personne dans les dix jours de la nomination du deuxième d'entre eux, la Commission nomme une troisième personne à la présidence du conseil d'arbitrage. Idem
- (6) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage. Rémunération
- (7) Le membre nommé par une partie reçoit la rémunération dont ils conviennent entre eux. Idem
- (8) Le membre nommé par les autres membres reçoit la rémunération dont il convient avec les parties. Idem
- (9) Le membre nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem
- (10) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent la nomination de la troisième personne. Devoir du conseil d'arbitrage
- (11) La décision de la majorité des membres du conseil d'arbitrage est la décision du conseil. Décision majoritaire
- (12) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive
- (13) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article. Non-application du chap. 25 des L.R.O. de 1980

Arbitration board appointed by Lieutenant Governor in Council

**60.**—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are more than two parties to the dispute.

Commission to notify Lieutenant Governor in Council

(2) If this section applies to a dispute, the Commission shall notify the Lieutenant Governor in Council of the fact as soon as possible.

Appointment of arbitration board to resolve dispute

(3) The Lieutenant Governor in Council shall appoint an arbitration board of one or three persons to resolve the dispute.

Remuneration

(4) The parties shall pay the remuneration of the members of the arbitration board in equal shares.

Idem

(5) The members of the arbitration board shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Duty of arbitration board

(6) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of being appointed.

Majority decision

(7) If the arbitration board consists of three persons, the decision of a majority of them is the board's decision.

Decision final

(8) The arbitration board's decision is final and binding upon the parties.

R.S.O. 1980, c. 25 does not apply

(9) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.

## PART XII

### TRANSFER OF BUILDINGS AND ASSETS TO FRENCH-LANGUAGE BOARD

Transfer of real property

**61.**—(1) Any real property of an English-language board that on the 31st day of January, 1988 was a school site used by French-language instructional units shall be transferred to the French-language Board on the 1st day of January, 1989.

Idem

(2) If a school site used by French-language instructional units of an English-language board on the 31st day of January, 1988 ceases to be so used on or before the 31st day of December, 1988 and a second school site is so used in its place, the

**60** (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a plus de deux parties au conflit.

Conseil d'arbitrage constitué par le lieutenant-gouverneur en conseil

(2) Si le présent article s'applique à un conflit, la Commission en avise le lieutenant-gouverneur en conseil le plus tôt possible.

La Commission avise le lieutenant-gouverneur en conseil

(3) Le lieutenant-gouverneur en conseil constitue un conseil d'arbitrage composé d'une ou de trois personnes pour résoudre le conflit.

Constitution d'un conseil d'arbitrage pour résoudre le conflit

(4) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage.

Rémunération

(5) Les membres du conseil d'arbitrage reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil.

Idem

(6) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent sa constitution.

Devoir du conseil d'arbitrage

(7) Si le conseil d'arbitrage est composé de trois personnes, la décision de la majorité d'entre eux est la décision du conseil.

Décision majoritaire

(8) La décision du conseil d'arbitrage est définitive et lie les parties.

Décision définitive

(9) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article.

Non-application du chap. 25 des L.R.O. de 1980

## PARTIE XII

### TRANSFERT DE BÂTIMENTS ET DE BIENS AU CONSEIL DE LANGUE FRANÇAISE

**61** (1) Les biens immeubles d'un conseil de langue anglaise qui, le 31 janvier 1988, constituaient des emplacements scolaires utilisés par des modules scolaires de langue française sont transférés au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Transfert de biens immeubles

(2) Si un emplacement scolaire utilisé par des modules scolaires de langue française d'un conseil de langue anglaise le 31 janvier 1988 cesse d'être ainsi utilisé le 31 décembre 1988 ou avant, et qu'un second emplacement scolaire est utilisé à sa

Idem

French-language Board may require the second school site to be transferred to it under subsection (1) in the place of the first school site.

*Idem* (3) Subject to subsection (2), if a school site was not used by French-language instructional units on the 31st day of January, 1988 but becomes so used on or before the 31st day of December, 1988, the school site shall be transferred to the French-language Board on the 1st day of January, 1989.

Transfer of personal property (4) All of the personal property of an English-language board that on the 31st day of January, 1988 was used on a school site that is to be transferred under subsection (1) or (3) shall be transferred to the French-language Board on the 1st day of January, 1989.

Debts re transferred property (5) The French-language Board shall pay to the relevant English-language board on or before the due date all amounts of principal and interest becoming due upon any outstanding debts in respect of a school site transferred under this section from that English-language board to the French-language Board.

Transfer not a closing (6) A transfer of a school site under this section is not a closing of a school.

Agreement (7) This section is subject to any agreement between the French-language Board and an English-language board concerning the transfer of school sites between them.

Allocation of school sites (8) Unless both sectors provide otherwise by majority resolutions, the school sites transferred to the French-language Board by The Ottawa Board of Education or The Carleton Board of Education shall be allocated to the public sector and the school sites transferred to the French-language Board by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic School Board shall be allocated to the Roman Catholic sector.

Failure to agree (9) If only one sector resolves that a school site be transferred under subsection (8), either sector may require that the matter be resolved under Part XI.

Transfer of other assets required **62.**—(1) On or before the 31st day of August, 1989, each English-language board shall transfer to the French-language Board assets and reserves in addition to those transferred under section 61.



place, le Conseil de langue française peut exiger que ce second emplacement lui soit transféré, aux termes du paragraphe (1), à la place du premier emplacement.

(3) Sous réserve du paragraphe (2), si un emplacement scolaire n'était pas utilisé par des modules scolaires de langue française le 31 janvier 1988, mais le devient au plus tard le 31 décembre 1988, l'emplacement scolaire est transféré au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Idem

(4) Tous les biens meubles d'un conseil de langue anglaise qui, le 31 janvier 1988, étaient utilisés sur un emplacement scolaire qui doit être transféré aux termes du paragraphe (1) ou (3) sont transférés au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Transfert de biens meubles

(5) Le Conseil de langue française paie au conseil de langue anglaise intéressé, au plus tard à la date d'exigibilité, tous les montants de principal et d'intérêts qui deviennent exigibles sur les dettes impayées à l'égard d'un emplacement scolaire transféré, aux termes du présent article, de ce conseil de langue anglaise au Conseil de langue française.

Dettes relatives aux biens transférés

(6) Le transfert d'un emplacement scolaire aux termes du présent article ne constitue pas la fermeture d'une école.

Le transfert n'est pas une fermeture

(7) Le présent article est assujéti à toute entente entre le Conseil de langue française et un conseil de langue anglaise concernant le transfert d'emplacements scolaires entre eux.

Entente

(8) À moins que les deux sections ne prévoient autrement par voie de résolutions majoritaires, les emplacements scolaires transférés au Conseil de langue française par le Conseil de l'éducation d'Ottawa et le Conseil de l'éducation de Carleton sont attribués à la section publique, et les emplacements scolaires transférés au Conseil de langue française par le Conseil des écoles séparées catholiques d'Ottawa et le Conseil des écoles séparées catholiques de Carleton sont attribués à la section catholique.

Attribution des emplacements scolaires

(9) Si une seule des sections décide, par voie de résolution, de transférer un emplacement scolaire aux termes du paragraphe (8), l'une ou l'autre des sections peut exiger que la question soit résolue aux termes de la partie XI.

Défaut d'entente

**62** (1) Au plus tard le 31 août 1989, chaque conseil de langue anglaise transfère au Conseil de langue française des biens et des réserves en plus de ceux qu'il transfère aux termes de l'article 61.

Transfert d'autres biens

Equitable  
contribution

(2) The assets and reserves to be transferred under this section by an English-language board shall represent an equitable contribution of that English-language board to the French-language Board.

Choosing  
assets,  
reserves

(3) In choosing the assets and reserves to be transferred under this section, an English-language board shall take into account all of the French-language Board's requirements for establishing, maintaining and operating a school board.

Negotiations

(4) Forthwith after the 30th day of April, 1988, the members of each English-language board who are members of its French-language Education Council shall enter into negotiations with the other members of that board to choose the board's assets and reserves to be transferred to the French-language Board under this section.

Resolution

(5) On or before the 31st day of August, 1988, each English-language board shall by resolution confirm its choice of the assets and reserves it intends to transfer to the French-language Board under this section.

Idem

(6) An English-language board shall not adopt a resolution under this section unless a majority of its members who are members of its French-language Education Council and a majority of its other members agree to it.

If no  
resolution

(7) If an English-language board does not adopt a resolution in the time provided by subsection (5), the choice of the assets and reserves to be transferred under this section shall be referred to the Commission as a dispute under Part XI.

Parties

(8) The members of an English-language board who are members of its French-language Education Council and the other members of the board shall be deemed to be the two parties to a dispute under subsection (7).

If full board  
not satisfied

(9) If on or before the 31st day of December, 1988 the full board determines by resolution that,

- (a) the assets and reserves of an English-language board chosen for transfer do not represent an equitable contribution; or

(2) Les biens et les réserves que transfère un conseil de langue anglaise aux termes du présent article constituent une contribution équitable de sa part au Conseil de langue française.

Contribution  
équitable

(3) Lorsqu'il choisit les biens et les réserves qu'il transfère aux termes du présent article, le conseil de langue anglaise tient compte de tous les besoins du Conseil de langue française en ce qui concerne la création, le maintien et le fonctionnement d'un conseil scolaire.

Choix des  
biens et des  
réserves

(4) Immédiatement après le 30 avril 1988, les membres de chaque conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise entament des négociations avec les autres membres de leur conseil de langue anglaise afin de choisir les biens et les réserves du conseil qui seront transférés au Conseil de langue française aux termes du présent article.

Négociations

(5) Au plus tard le 31 août 1988, chaque conseil de langue anglaise confirme, par voie de résolution, le choix des biens et des réserves qu'il a l'intention de transférer au Conseil de langue française aux termes du présent article.

Résolution

(6) Un conseil de langue anglaise n'adopte une résolution prévue par le présent article que si la majorité de ses membres qui sont membres de son conseil de l'enseignement en langue française et la majorité de ses autres membres y consentent.

Idem

(7) Si un conseil de langue anglaise n'adopte pas de résolution au plus tard à la date prévue au paragraphe (5), le choix des biens et des réserves qui seront transférés aux termes du présent article est renvoyé à la Commission comme un conflit visé à la partie XI.

Défaut de  
résolution

(8) Les membres d'un conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise et les autres membres du conseil de langue anglaise sont réputés les deux parties au conflit mentionné au paragraphe (7).

Parties

(9) Si, au plus tard le 31 décembre 1988, le conseil plénier établit par voie de résolution :

Cas où  
le conseil  
plénier  
n'est pas  
satisfait

- a) soit que les biens et les réserves du conseil de langue anglaise qui ont été choisis pour le transfert ne constituent pas une contribution équitable;

- (b) the choice of the assets and reserves to be transferred does not adequately take into account the French-language Board's requirements,

the choice of the assets and reserves shall be referred to the Commission as a dispute under Part XI.

Parties

(10) The French-language Board and the relevant English-language board shall be deemed to be the parties to a dispute under subsection (9).

### PART XIII

#### TRANSFER OF EMPLOYEES TO FRENCH-LANGUAGE BOARD

Definitions

**63.—(1)** In this Part,

“employé”

R.S.O. 1980,  
c. 228

“employee” means a teacher or other employee and includes an employee as defined in the *Labour Relations Act* but does not include the director of education, the secretary or the treasurer of the board;

“ancienneté”

“seniority”, in respect of a transferred employee, means,

- (a) seniority as agreed upon between the English-language board that employed the transferred employee and the organization that entered into a collective agreement with the English-language board in respect of the transferred employees, or
- (b) if there is no collective agreement, seniority as determined in accordance with the policy of the English-language board;

“employé  
muté”

“transferred employee” means an employee of an English-language board who is transferred to the French-language Board under this Part.

Employees,  
other than  
teachers,  
under  
collective  
agreement

(2) Sections 71, 72 and 73 prevail over section 77 in respect of employees other than teachers if the employees' terms of employment are governed by a collective agreement.

- b) soit que le choix des biens et des réserves qui seront transférés ne tient pas suffisamment compte des besoins du Conseil de langue française,

le choix des biens et des réserves est renvoyé à la Commission comme un conflit visé à la partie XI.

(10) Le Conseil de langue française et le conseil de langue anglaise intéressé sont réputés les parties au conflit mentionné au paragraphe (9). Parties

### PARTIE XIII

#### MUTATION D'EMPLOYÉS AU CONSEIL DE LANGUE FRANÇAISE

**63** (1) Les définitions qui suivent s'appliquent à la présente partie. Définitions

«ancienneté» S'entend de ce qui suit, en ce qui concerne un employé muté : «seniority»

- a) soit l'ancienneté dont ont convenu entre eux le conseil de langue anglaise qui employait l'employé muté et l'organisation qui a conclu une convention collective avec le conseil de langue anglaise à l'égard de l'employé muté;
- b) soit, s'il n'y a pas de convention collective, l'ancienneté telle qu'elle est établie par la politique du conseil de langue anglaise.

«employé» S'entend d'un enseignant ou d'un autre employé, y compris un employé au sens de la *Loi sur les relations de travail*. Sont toutefois exclus le directeur de l'éducation, le secrétaire et le trésorier du conseil. «employee»  
L.R.O. 1980,  
chap. 228

«employé muté» Employé d'un conseil de langue anglaise qui est muté au Conseil de langue française aux termes de la présente partie. «transferred  
employee»

(2) Les articles 71, 72 et 73 l'emportent sur l'article 77 à l'égard des employés autres que les enseignants, si les conditions d'emploi des employés sont régies par une convention collective. Employés,  
autres que les  
enseignants,  
régis par une  
convention  
collective

Idem

(3) Sections 69, 70 and 74 do not apply to employees other than teachers if the employees' terms of employment are governed by a collective agreement.

Assignment of services

**64.**—(1) Each English-language board shall assign to the French-language Board the services in respect of French-language instructional units of each of its employees who during the period from the 1st day of September, 1988 to the 31st day of December, 1988 is assigned or recruited to provide services in or on behalf of French-language instructional units.

Period of assignment

(2) The services of each employee shall be assigned for the period beginning from the 1st day of January, 1989 and ending on the earlier of the 31st day of August, 1989 or the date agreed upon by the French-language Board and the relevant English-language board.

Fee for services

(3) The French-language Board shall pay to the relevant English-language board an amount agreed upon by both boards for the services provided under this section.

Definition "employé désigné"

**65.**—(1) In this section, "designated employee" means an employee of an English-language board who on the 1st day of December, 1988,

- (a) is assigned or recruited by that board exclusively for work in or on behalf of French-language instructional units; or
- (b) being employed in the manner described in clause (a), is on authorized leave from that work or temporarily assigned to other work.

Notice to designated employees

(2) On or before the 15th day of December, 1988, each English-language board shall notify each of its designated employees in writing that he or she will be transferred to the French-language Board effective the 1st day of September, 1989.

Idem

(3) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of February, 1989.

Notice of positions available

(4) Forthwith after the 1st day of February, 1989, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

(3) Les articles 69, 70 et 74 ne s'appliquent pas aux employés autres que les enseignants, si les conditions d'emploi des employés sont régies par une convention collective. Idem

**64** (1) Chaque conseil de langue anglaise assigne au Conseil de langue française les services à l'égard des modules scolaires de langue française de chacun de ses employés qui, pendant la période allant du 1<sup>er</sup> septembre 1988 au 31 décembre 1988, est affecté ou recruté pour fournir des services dans les modules scolaires de langue française ou pour leur compte. Assignation de services

(2) Les services de chaque employé sont assignés pour la période commençant le 1<sup>er</sup> janvier 1989 et se terminant soit le 31 août 1989, soit à la date convenue par le Conseil de langue française et le conseil de langue anglaise intéressé, selon celle de ces deux dates qui survient en premier lieu. Période d'assignation

(3) Le Conseil de langue française paie au conseil de langue anglaise intéressé une somme convenue par les deux conseils pour les services fournis aux termes du présent article. Paiement des services

**65** (1) Dans le présent article, «employé désigné» s'entend d'un employé d'un conseil de langue anglaise qui, le 1<sup>er</sup> décembre 1988, selon le cas :

- a) est affecté ou recruté par ce conseil pour travailler exclusivement dans les modules scolaires de langue française ou pour leur compte;
- b) tout en étant employé de la façon décrite à l'alinéa a), est en congé autorisé ou temporairement affecté à d'autres tâches.

(2) Au plus tard le 15 décembre 1988, chaque conseil de langue anglaise avise par écrit chacun de ses employés désignés qu'il sera muté au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989. Avis aux employés désignés

(3) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1<sup>er</sup> février 1989. Idem

(4) Immédiatement après le 1<sup>er</sup> février 1989, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines. Avis des postes disponibles

Applications  
invited

(5) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the designated employees who objected to their transfer.

Seniority

(6) The English-language boards shall choose the other employees who are to be transferred in the place of objecting designated employees on the basis of seniority.

Replacement  
deemed to  
be designated  
employee

(7) If another employee who is qualified to be transferred to the French-language Board in the place of a designated employee applies for a position, the other employee shall be deemed to be a designated employee and the employee who objected shall be deemed not to be a designated employee.

Notice of  
transfer

(8) Forthwith after the 15th day of May, 1989, each English-language board shall notify all of its designated employees in writing that they will be transferred to the French-language Board effective the 1st day of September, 1989.

Responsi-  
bility for  
contracts

(9) Subject to sections 69 and 77, the teaching contract, employment contract or employment relationship, as the case may be, of an employee who is transferred under this section is transferred to and assumed by the French-language Board effective the 1st day of September, 1989.

Similar  
employment

(10) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Collective  
agreement

(11) Subsections (2) to (7) are subject to any applicable collective agreement.

Other  
employees  
to be  
transferred

**66.**—(1) The English-language boards and the French-language Board shall,

- (a) determine the number of employees of each English-language board other than those designated under section 65 whose services will not be required by that English-language board consequent upon the formation of the French-language Board;
- (b) determine the number of positions which the French-language Board will need to fill consequent upon its formation; and



(5) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés désignés qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de demandes

(6) Les conseils de langue anglaise choisissent en fonction de l'ancienneté les autres employés qui seront mutés à la place des employés désignés qui s'opposent à leur mutation.

Ancienneté

(7) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place d'un employé désigné fait une demande d'emploi, l'autre employé est réputé un employé désigné et l'employé qui s'est opposé est réputé ne pas être un employé désigné.

Remplaçant  
réputé un  
employé  
désigné

(8) Immédiatement après le 15 mai 1989, chaque conseil de langue anglaise avise par écrit tous ses employés désignés qu'ils seront mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989.

Avis de  
mutation

(9) Sous réserve des articles 69 et 77, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé muté en vertu du présent article est transféré au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989, et ce conseil l'assume.

Responsabilité  
des contrats

(10) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi  
semblable

(11) Les paragraphes (2) à (7) sont assujettis à toute convention collective applicable.

Convention  
collective

**66** (1) Les conseils de langue anglaise et le Conseil de langue française :

Mutation  
d'autres  
employés

- a) décident du nombre d'employés de chaque conseil de langue anglaise, autres que ceux qui sont désignés aux termes de l'article 65, dont ce conseil de langue anglaise ne nécessitera pas les services par suite de la formation du Conseil de langue française;
- b) décident du nombre de postes que le Conseil de langue française devra combler par suite de sa formation;

- (c) select the employees of the English-language boards who are to be transferred to the French-language Board to fill the positions referred to in clause (b).

Selection by agreement

(2) The determinations and selection under subsection (1) shall be made by agreements among all five boards that provide for,

- (a) the exchange of enrolment and other data among the boards so as to enable them to make the appropriate selections;
- (b) methods for encouraging voluntary transfers of employees to positions with the French-language Board; and
- (c) a right of first refusal, on the basis of seniority, for selected persons with respect to positions that become vacant in their English-language board.

Idem

(3) The agreement may contain provisions in addition to those required by subsection (2), including provisions to encourage the secondment and assignment of services of teachers and supervisory officers of the English-language board to positions with the French-language Board.

Collective agreements

(4) No agreement under subsection (2) renders inoperative any provision in a collective agreement unless the parties to the collective agreement agree in writing to an amendment to it.

Yearly selections

(5) The determinations and selection shall be made in 1989, 1990 and 1991, not later than the 31st day of March in each year.

Notice to selected employees

(6) On or before the 1st day of March in 1989, 1990 and 1991, each English-language board shall notify in writing each of its employees who have been selected for transfer in the relevant year that he or she will be transferred to the French-language Board effective the 1st day of September next following.

Idem

(7) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of April in that year.

- c) choisissent les employés des conseils de langue anglaise qui doivent être mutés au Conseil de langue française pour combler les postes visés à l'alinéa b).

(2) Les décisions et le choix prévus au paragraphe (1) se font au moyen d'ententes entre les cinq conseils qui prévoient ce qui suit : Entente

- a) l'échange de données sur l'effectif et d'autres sujets entre les conseils de façon à leur permettre de faire les choix appropriés;
- b) des méthodes visant à encourager les employés à accepter volontairement des mutations à des postes au Conseil de langue française;
- c) un droit de premier refus, en fonction de l'ancienneté, pour les personnes choisies en ce qui concerne les postes qui deviennent vacants dans leur conseil de langue anglaise.

(3) L'entente peut comprendre, outre les dispositions exigées par le paragraphe (2), des dispositions visant notamment à encourager les détachements et l'assignation des services d'enseignants et d'agents de supervision des conseils de langue anglaise à des postes au Conseil de langue française. Idem

(4) L'entente prévue au paragraphe (2) ne rend inopérante aucune disposition d'une convention collective, à moins que les parties à la convention collective ne conviennent, par écrit, de modifier la convention collective. Conventions collectives

(5) Les décisions et le choix sont faits en 1989, 1990 et 1991, au plus tard le 31 mars de chaque année. Choix annuels

(6) Au plus tard le 1<sup>er</sup> mars en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit chacun de ses employés qui ont été choisis pour la mutation au cours de l'année en question qu'il sera muté au Conseil de langue française à compter du 1<sup>er</sup> septembre suivant. Avis aux employés choisis

(7) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1<sup>er</sup> avril de cette année. Idem

Notice of  
positions  
available

(8) Forthwith after the 1st day of April in 1989, 1990 and 1991, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications  
invited

(9) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the selected employees who objected to their transfer.

Replacement  
deemed to  
be selected

(10) If another employee who is qualified to be transferred to the French-language Board in the place of the selected employee applies for a position, the other employee shall be deemed to be so selected and the employee who objected shall be deemed not to be so selected.

Notice of  
transfer

(11) Forthwith after the 15th day of May in 1989, 1990 and 1991, each English-language board shall give written notice to all of its employees who are selected for transfer in the relevant year that they will be transferred to the French-language Board effective the 1st day of September in that year.

Responsi-  
bility for  
contracts

(12) Subject to sections 69 and 77, the teaching contract, employment contract or employment relationship, as the case may be, of an employee selected under subsection (2) or (10) is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement is reached or such earlier date as all of the boards may agree upon.

Similar  
employment

(13) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Seniority

(14) Subject to any collective agreement in effect, each English-language board shall determine the persons who are to be selected for transfer for any given position under subsection (2) or (10) on the basis of seniority.

Priority to  
employees of  
English-  
language  
boards

(15) In 1989, 1990 and 1991, the French-language Board shall not hire a person who is not an employee of an English-language board to fill a position required to be filled under clause (1) (b) if there is an employee of an English-language board whose services are no longer required under clause (1) (a) and who is qualified and available to fill the position.

(8) Immédiatement après le 1<sup>er</sup> avril en 1989, 1990 et 1991, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines.

Avis des postes disponibles

(9) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés choisis qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de demandes

(10) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place de l'employé choisi fait une demande d'emploi, l'autre employé est réputé avoir été choisi et l'employé qui s'est opposé est réputé ne pas l'avoir été.

Remplaçant réputé choisi

(11) Immédiatement après le 15 mai en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit tous ses employés choisis pour la mutation au cours de l'année en question qu'ils seront mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre de cette année.

Avis de mutation

(12) Sous réserve des articles 69 et 77, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé choisi en vertu du paragraphe (2) ou (10) est transféré au Conseil de langue française et ce conseil l'assume, à compter du 1<sup>er</sup> septembre qui suit la date de l'entente ou d'une date antérieure dont ont convenu tous les conseils.

Responsabilité des contrats

(13) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi semblable

(14) Sous réserve des conventions collectives en vigueur, chaque conseil de langue anglaise décide en fonction de l'ancienneté des personnes qui sont choisies pour la mutation à des postes donnés aux termes du paragraphe (2) ou (10).

Ancienneté

(15) En 1989, 1990 et 1991, le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé d'un conseil de langue anglaise pour combler un poste qui doit être comblé aux termes de l'alinéa (1) b) s'il y a un employé d'un conseil de langue anglaise dont les services ne sont plus nécessaires aux termes de l'alinéa (1) a) qui est disponible et possède les qualités requises pour assumer ce poste.

Priorité accordée aux employés des conseils de langue anglaise

Collective  
agreement

(16) Subsections (6) to (10) and (15) are subject to any applicable collective agreement.

Identify  
employees  
for whom  
there is no  
position

**67.**—(1) The agreement made in 1989, 1990 and 1991 under subsection 66 (2) shall identify the employees of each English-language board for whom there is no position on the English-language board or the French-language Board consequent upon the formation of the French-language Board.

Entitled to  
training  
assistance

(2) An employee described in subsection (1) is entitled to receive training assistance comparable to the training assistance prescribed for a designated person under subsection 136-1 (9) of the *Education Act*.

R.S.O. 1980,  
c. 129

Maintain in  
employ

(3) The French-language Board or one of the English-language boards shall maintain an employee described in subsection (1) in its employ, provide the training assistance to which the employee is entitled and offer the employee employment in a position appropriate to the employee's previous or newly acquired qualifications.

Agreement

(4) The agreement under subsection 66 (2) shall provide for an equitable sharing of the responsibility under subsection (3).

Idem

(5) In determining what is an equitable sharing of responsibility, the boards shall consider for each category of employees within each English-language board all of the relevant circumstances including,

- (a) the number of employees who have been transferred to the French-language Board under sections 65 and 66;
- (b) the number of employees described in subsection (1);
- (c) the total number of employees of the English-language board; and
- (d) the percentage of pupils who were pupils of that English-language board and have transferred to the French-language Board.

Idem

(6) For the purpose of subsection (5), the categories of employees are supervisory officers, teachers, secretaries, maintenance workers, administrative assistants and other employees.

(16) Les paragraphes (6) à (10) et (15) sont assujettis à toute convention collective applicable. Convention collective

**67** (1) L'entente conclue en 1989, 1990 et 1991 aux termes du paragraphe 66 (2) énonce les noms des employés de chaque conseil de langue anglaise pour lesquels il n'y a de poste ni au conseil de langue anglaise ni au Conseil de langue française par suite de la formation du Conseil de langue française. Noms des employés sans poste

(2) Les employés visés au paragraphe (1) ont le droit de recevoir une aide en matière de formation semblable à l'aide prescrite pour une personne désignée en vertu du paragraphe 136-1 (9) de la *Loi sur l'éducation*. Aide en matière de formation  
L.R.O. 1980, chap. 129

(3) Le Conseil de langue française ou l'un des conseils de langue anglaise garde l'employé visé au paragraphe (1) à son service, lui fournit l'aide en matière de formation à laquelle il a droit et lui offre un poste qui correspond à sa formation préalable ou à sa formation nouvellement acquise. Maintien en poste

(4) L'entente visée au paragraphe 66 (2) prévoit un partage équitable de la responsabilité visée au paragraphe (3). Entente

(5) Pour déterminer ce qui constitue un partage équitable de la responsabilité, les conseils tiennent compte, pour chaque catégorie d'employés dans chaque conseil de langue anglaise, de toutes les circonstances pertinentes, y compris les éléments suivants : Idem

- a) le nombre d'employés qui ont été mutés au Conseil de langue française en vertu des articles 65 et 66;
- b) le nombre d'employés visés au paragraphe (1);
- c) le nombre total d'employés du conseil de langue anglaise;
- d) le pourcentage d'élèves qui étaient des élèves de ce conseil de langue anglaise et qui sont passés au Conseil de langue française.

(6) Pour l'application du paragraphe (5), les catégories d'employés sont les agents de supervision, les enseignants, les secrétaires, les préposés à l'entretien, les adjoints administratifs et les autres employés. Idem

Jurisdiction  
within  
French-  
language  
Board

**68.**—(1) The teaching contract, employment contract or employment relationship of a transferred employee is under the jurisdiction of,

- (a) the public sector, if the employee is transferred from The Ottawa Board of Education or The Carleton Board of Education;
- (b) the Roman Catholic sector, if the employee is transferred from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

Agreement  
for transfer  
to full board

(2) Subject to section 77, the public sector and the Roman Catholic sector shall each make an agreement with the full board to transfer specified employees and their contracts or employment relationships from the relevant sector to the full board.

Idem

(3) In making the agreements, the parties shall take into account the needs of the relevant sector, the needs of the full board and the requirements under subsections 65 (10) and 66 (13) that transferred employees be employed in positions substantially similar to their positions before the transfer.

Seniority

(4) Subject to any collective agreement in effect, the parties shall determine on the basis of seniority which employees are to be transferred to the full board.

Terms of  
employment

**69.**—(1) The terms of employment of the following transferred employees shall be determined under the collective agreement or board policy that applied to them immediately before the transfer:

1. Transferred employees who are transferred from an English-language board in 1989 and who immediately before the transfer were working in a building of that English-language board that was transferred to the French-language Board.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment applying to them immediately before the transfer are determined under a collective agreement or board policy that still applies to other employees with substantially the same job description who were transferred from the same English-language board in 1989.



**68** (1) Le contrat d'enseignement, le contrat d'emploi ou la relation de travail d'un employé muté relève :

Compétence  
au sein du  
Conseil  
de langue  
française

- a) de la section publique, si l'employé est muté du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton;
- b) de la section catholique, si l'employé est muté du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton.

(2) Sous réserve de l'article 77, la section publique et la section catholique concluent chacune avec le conseil plénier une entente en vue de la mutation d'employés spécifiés et de leur contrat ou relation de travail, de la section intéressée au conseil plénier.

Entente en  
vue de la  
mutation au  
conseil  
plénier

(3) Lorsqu'elles concluent les ententes, les parties tiennent compte des besoins de la section intéressée, des besoins du conseil plénier et des exigences prévues aux paragraphes 65 (10) et 66 (13) selon lesquelles les employés mutés doivent occuper des postes essentiellement semblables à ceux qu'ils occupaient avant la mutation.

Idem

(4) Sous réserve des conventions collectives en vigueur, les parties choisissent en fonction de l'ancienneté les employés qui sont mutés au conseil plénier.

Ancienneté

**69** (1) Les conditions d'emploi des employés mutés suivants sont établies aux termes de la convention collective ou de la politique de conseil qui s'appliquait à eux immédiatement avant la mutation :

Conditions  
d'emploi

1. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1989 et qui, immédiatement avant la mutation, travaillaient dans un bâtiment du conseil de langue anglaise qui a été transféré au Conseil de langue française.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi qui s'appliquaient à eux immédiatement avant la mutation sont établies aux termes d'une convention collective ou d'une politique de conseil qui s'applique encore à d'autres employés qui ont des descriptions d'emploi essentiellement semblables et qui ont été mutés du même conseil de langue anglaise en 1989.

Idem

(2) The terms of employment of the following persons shall be determined in the manner provided in subsections (3) and (4):

1. Persons who are not transferred employees and who are recruited or assigned to work for the French-language Board in 1989, 1990 or 1991.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment have been renegotiated by the French-language Board for other transferred employees who,
  - i. were transferred in 1989 from that same English-language board, and
  - ii. have substantially the same job description.
3. Transferred employees who are transferred from an English-language board if,
  - i. immediately before the transfer they were working in a building of that English-language board that was not transferred to the French-language Board, and
  - ii. the collective agreement or board policy governing their terms of employment is different from that applying to other transferred employees having substantially the same job description who immediately before their transfer were working in a building of that English-language board that was transferred to the French-language Board.

Idem

(3) The terms of employment of a person described in subsection (2) shall be determined under the collective agreement or board policy applying to transferred employees who,

- (a) were transferred from the same English-language board that transferred the building in which the person is recruited or assigned to work; and
- (b) have substantially the same job description.

(2) Les conditions d'emploi des personnes suivantes sont établies de la façon prévue aux paragraphes (3) et (4) : <sup>Idem</sup>

1. Les personnes qui ne sont pas des employés mutés et qui sont recrutées ou affectées pour travailler pour le Conseil de langue française en 1989, 1990 ou 1991.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi ont été renégociées par le Conseil de langue française pour les autres employés mutés qui :
  - i. d'une part, ont été mutés en 1989 du même conseil de langue anglaise,
  - ii. d'autre part, ont des descriptions d'emploi essentiellement semblables.
3. Les employés mutés qui sont mutés d'un conseil de langue anglaise si :
  - i. d'une part, ils travaillaient, immédiatement avant la mutation, dans un bâtiment de ce conseil de langue anglaise qui n'a pas été transféré au Conseil de langue française,
  - ii. d'autre part, la convention collective ou la politique de conseil qui régit leurs conditions d'emploi est différente de celle qui s'applique aux autres employés mutés qui ont des descriptions d'emploi essentiellement semblables et qui, immédiatement avant leur mutation, travaillaient dans un bâtiment de ce conseil de langue anglaise qui a été transféré au Conseil de langue française.

(3) Les conditions d'emploi de la personne décrite au paragraphe (2) sont établies aux termes de la convention collective ou de la politique de conseil s'appliquant aux employés mutés qui : <sup>Idem</sup>

- a) d'une part, ont été mutés du même conseil de langue anglaise qui a transféré le bâtiment dans lequel la personne recrutée ou affectée est censée travailler;
- b) d'autre part, ont des descriptions d'emploi essentiellement semblables.

- Idem (4) If a person described in subsection (2) is recruited or assigned to work in a building that was not transferred from an English-language board, the French-language Board shall determine which collective agreement or board policy governs that person's terms of employment.
- Seniority **70.**—(1) Seniority in respect of a position in a school or premises of the French-language Board shall be determined on the basis of the seniority list applying to employees transferred from the same English-language board that transferred the school or premises.
- Idem (2) The French-language Board shall not hire a person who is not a transferred employee if there is a transferred employee who is qualified, willing and available to fill the position.
- Post notice (3) Before a sector or the full board fills a position, it shall notify all transferred employees of the position by causing a notice to be posted in all of the schools of both sectors and at the head office of the French-language Board.
- Seniority of transferred employees (4) No person who is not a transferred employee shall have seniority over a transferred employee who is employed by the French-language Board and has substantially the same job description.
- Idem (5) Subsection (4) applies even if the persons' contracts or employment relationships are administered by different sectors or one is administered by a sector and the other by the full board.
- Application of section (6) This section applies until the 30th day of June, 1999.
- Agreement (7) The French-language Board and the branch affiliate or affiliates representing persons having substantially the same job descriptions may by agreement in writing provide that a provision in this section does not apply to those persons.
- Conflict  
R.S.O. 1980,  
c. 228 (8) This section does not apply if an application is made under section 63 of the *Labour Relations Act* in respect of employees who are deemed to be intermingled under section 77 of this Act.

(4) Si la personne décrite au paragraphe (2) est recrutée ou affectée pour travailler dans un bâtiment qui n'a pas été transféré du conseil de langue anglaise, le Conseil de langue française choisit quelle convention collective ou politique de conseil régit les conditions d'emploi de cette personne. Idem

**70** (1) L'ancienneté à l'égard d'un poste dans une école ou des lieux du Conseil de langue française est établie en fonction de la liste d'ancienneté qui s'applique aux employés mutés du conseil de langue anglaise qui a transféré l'école ou les lieux. Ancienneté

(2) Le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé muté s'il y a un employé muté qui est disponible, qui possède les qualités requises pour assumer le poste et qui accepte de le faire. Idem

(3) Avant de combler un poste, la section ou le conseil plénier avise du poste tous les employés mutés en faisant afficher un avis dans toutes les écoles des deux sections et au siège social du Conseil de langue française. Affichage des postes

(4) Quiconque n'est pas un employé muté n'a pas plus d'ancienneté qu'un employé muté ayant une description d'emploi essentiellement semblable au Conseil de langue française. Ancienneté des employés mutés

(5) Le paragraphe (4) s'applique même si les contrats ou les relations de travail des personnes sont administrés par des sections différentes ou qu'ils sont administrés les uns par une section et les autres par le conseil plénier. Idem

(6) Le présent article s'applique jusqu'au 30 juin 1999. Application de l'article

(7) Le Conseil de langue française et la ou les sections locales représentant les personnes qui ont des descriptions d'emploi essentiellement semblables peuvent conclure une entente écrite qui prévoit qu'une disposition du présent article ne s'applique pas à ces personnes. Entente

(8) Le présent article ne s'applique pas si une requête est présentée en vertu de l'article 63 de la *Loi sur les relations de travail* à l'égard d'employés réputés réunis en vertu de l'article 77 de la présente loi. Incompatibilité  
L.R.O. 1980,  
chap. 228

Compensation rate

**71.** If the terms of employment of a transferred employee change under section 69 as a result of the transfer, the employee has the right to an annual rate of salary equal to the greater of,

- (a) the annual rate of salary that the employee would have been entitled to if he or she had continued to be employed by the English-language board in the first year that he or she is employed by the French-language Board; or
- (b) the annual rate of salary of the position in which he or she is employed by the French-language Board.

Sick leave credits

**72.—(1)** Sick leave credits standing to a transferred employee's credit with an English-language board shall be transferred to the plan maintained by the French-language Board at the time the person's employment is transferred.

Idem

(2) If the French-language Board does not maintain a plan at the time a transferred employee's contract or employment relationship is transferred, the employee is entitled to receive sick leave benefits from the French-language Board and the French-language Board shall place to the employee's credit the sick leave credits standing to his or her credit in the plan that applied to the employee while employed by the English-language board.

Credit for total accumulation

(3) If the terms of the plan maintained by the French-language Board differ from the terms of the plan that applied to the transferred employee while employed by the English-language board and the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan maintained by the French-language Board, the transferred employee shall be given credit for the number transferred but is not entitled to accumulate further sick leave credits unless the plan maintained by the French-language Board is amended to permit a greater accumulation.

Accumulation and use of sick leave credits

(4) Subject to subsection (3), a transferred employee is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the French-language Board.

**71** Si les conditions d'emploi d'un employé muté changent aux termes de l'article 69 par suite de la mutation, l'employé a droit à un taux de salaire annuel égal au plus élevé des montants suivants :

Taux de rémunération

- a) le taux de salaire annuel auquel l'employé aurait eu droit s'il était resté au service du conseil de langue anglaise pendant la première année où il est au service du Conseil de langue française;
- b) le taux de salaire annuel du poste auquel il est employé au Conseil de langue française.

**72** (1) Les crédits pour congés de maladie que l'employé muté a accumulés auprès d'un conseil de langue anglaise sont transférés au régime que maintient le Conseil de langue française au moment de la mutation de l'employé.

Crédits pour congés de maladie

(2) Si le Conseil de langue française ne maintient pas de régime au moment où le contrat ou la relation de travail de l'employé muté est transféré, l'employé a droit à des congés de maladie de la part du Conseil de langue française, et celui-ci crédite à l'employé les crédits pour congés de maladie que l'employé a accumulés dans le régime qui s'appliquait à lui lorsqu'il était au service du conseil de langue anglaise.

Idem

(3) Si les conditions du régime maintenu par le Conseil de langue française diffèrent des conditions du régime qui s'appliquait à l'employé muté lorsqu'il était au service du conseil de langue anglaise et que le nombre de crédits pour congés de maladie qui sont transférés dépasse le nombre total de crédits de ce genre qui peuvent être accumulés en vertu du régime maintenu par le Conseil de langue française, l'employé muté reçoit un crédit pour le nombre ainsi transféré. Il n'a toutefois pas le droit d'accumuler d'autres crédits pour congés de maladie à moins que le régime maintenu par le Conseil de langue française ne soit modifié afin de permettre l'accumulation d'un plus grand nombre de crédits.

Nombre total de crédits accumulés

(4) Sous réserve du paragraphe (3), l'employé muté a le droit d'accumuler et d'utiliser des crédits pour congés de maladie conformément au régime que maintient le Conseil de langue française.

Accumulation et utilisation des crédits pour congés de maladie

Gratuity

**73.**—(1) Upon termination of employment with the French-language Board, a transferred employee is entitled to payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applied in respect of the person on the last date that the person was employed by the English-language board as though the person had continued to be employed by the English-language board.

Idem

(2) In lieu of the payment under subsection (1), a transferred employee has the right to require payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applies in respect of the person on the last date that the person is employed by the French-language Board.

Idem

(3) The amount of the payment under this section shall be shared by the English-language board and the French-language Board in the ratio that the number of years of the transferred employee's service with each board bears to the total number of years of his or her service with both boards.

Employee  
dispute  
resolution

**74.**—(1) A dispute in respect of any matter arising under this Part in the employment relationship between an employee and the French-language Board or an English-language board may be resolved by a grievance arbitration in accordance with this section.

Parties

(2) The parties to the arbitration are the French-language Board or the relevant English-language board, as the case requires, and the person or, if the person is employed under a collective agreement, the organization that represents the person under the collective agreement.

Grievance  
arbitration  
R.S.O. 1980,  
c. 129

(3) Subsections 136m (3) to (16) and sections 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to a grievance arbitration under subsection (1).

Transfer of  
employees  
from public  
to Roman  
Catholic  
sector  
R.S.O. 1980,  
c. 129

**75.** Sections 136-1, 136-1a, 136m, 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to the transfer of employees from the public sector to the Roman Catholic sector, and for the purpose of applying those provisions the Roman Catholic sector shall be deemed to begin to perform the duties of a secondary school board on the 1st day of January, 1989.



**73** (1) À la fin de son emploi au Conseil de langue française, l'employé muté a le droit de recevoir un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'appliquait à son égard le dernier jour de son emploi auprès du conseil de langue anglaise, comme si la personne était restée au service du conseil de langue anglaise.

Droit à un paiement

(2) Au lieu de recevoir le paiement prévu au paragraphe (1), l'employé muté a le droit d'exiger le paiement d'un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'applique à son égard le dernier jour de son emploi au Conseil de langue française.

Idem

(3) Le conseil de langue anglaise et le Conseil de langue française se partagent le montant du paiement prévu au présent article en fonction du rapport qui existe entre le nombre d'années de service de l'employé muté auprès de chaque conseil et le nombre total d'années de service de l'employé muté auprès des deux conseils.

Idem

**74** (1) Un conflit à l'égard d'une question soulevée dans le cadre de la présente partie relativement à la relation de travail entre un employé et le Conseil de langue française ou un conseil de langue anglaise peut être résolu par arbitrage des griefs conformément au présent article.

Résolution des conflits des employés

(2) Les parties à l'arbitrage sont le Conseil de langue française ou le conseil de langue anglaise intéressé, selon le cas, et la personne ou, si cette dernière est employée aux termes d'une convention collective, l'organisation qui la représente aux termes de la convention collective.

Parties

(3) Les paragraphes 136m (3) à (16) et les articles 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'arbitrage des griefs prévu au paragraphe (1).

Arbitrage des griefs  
L.R.O. 1980, chap. 129

**75** Les articles 136-l, 136-la, 136m, 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la mutation d'employés de la section publique à la section catholique. Pour l'application de ces dispositions, la section catholique est réputée commencer à s'acquitter des fonctions d'un conseil d'écoles secondaires le 1<sup>er</sup> janvier 1989.

Mutation d'employés de la section publique à la section catholique  
L.R.O. 1980, chap. 129

Application  
of R.S.O.  
1980, c. 464

**76.**—(1) For the purposes of the *School Boards and Teachers Collective Negotiations Act*,

- (a) the Roman Catholic sector shall be deemed to be a Roman Catholic separate school board in respect of its elementary schools and a secondary school board in respect of its secondary schools;
- (b) the public sector shall be deemed to be a public school board in respect of its elementary schools and a secondary school board in respect of its secondary schools.

Idem

(2) For the purposes of that Act, the following branch affiliates shall be deemed to exist:

- 1. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 64 or designated under section 65 and who work in elementary schools of the public sector.
- 2. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 64 or designated under section 65 and who work in secondary schools of the public sector.
- 3. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 64 or designated under section 65 and who work in elementary schools of the Roman Catholic sector.
- 4. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 64 or designated under section 65 and who work in secondary schools of the Roman Catholic sector.
- 5. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 64 or designated under section 65 and who work in secondary schools of the public sector.

**76** (1) Pour l'application de la *Loi sur la négociation collective entre conseils scolaires et enseignants* :

Champ d'application du chap. 464 des L.R.O. de 1980

- a) la section catholique est réputée un conseil d'écoles séparées catholiques en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires;
- b) la section publique est réputée un conseil d'écoles publiques en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires.

(2) Pour l'application de cette loi, les sections locales suivantes sont réputées exister : Idem

1. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 64 ou désignés en vertu de l'article 65, et qui travaillent dans des écoles élémentaires de la section publique.
2. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 64 ou désignés en vertu de l'article 65, et qui travaillent dans des écoles secondaires de la section publique.
3. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 64 ou désignés en vertu de l'article 65, et qui travaillent dans des écoles élémentaires de la section catholique.
4. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 64 ou désignés en vertu de l'article 65, et qui travaillent dans des écoles secondaires de la section catholique.
5. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 64 ou désignés en vertu de l'article 65, et qui travaillent dans des écoles secondaires de la section publique.

6. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 64 or designated under section 65 and who work in secondary schools of the Roman Catholic sector.

Deemed notice of desire to negotiate  
R.S.O. 1980, c. 464

(3) Notice of desire to negotiate shall be deemed to have been given by each of the branch affiliates under section 9 of the *School Boards and Teachers Collective Negotiations Act* on the 1st day of January, 1989.

Transfer of jurisdiction not limited

(4) Despite subsection 4 (1) of the *School Boards and Teachers Collective Negotiations Act*, nothing in subsection (1) limits the right of the sectors to transfer their jurisdiction over collective bargaining to the full board under subsection 4 (4) of this Act.

Successor rights  
R.S.O. 1980, c. 228

**77.**—(1) For the purpose of section 63 of the *Labour Relations Act*, the employees who are not teachers and who are transferred from the English-language boards to the public sector shall be deemed to have been intermingled, and,

- (a) the Labour Relations Board may exercise the like powers as it may exercise under subsections 63 (6) and (8) of that Act with respect to the sale of a business under that section;
- (b) the public sector has the like rights and obligations as a person to whom a business is sold under that section and who intermingles the employees of one of the person's businesses with those of another of the person's businesses; and
- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees in two or more businesses under section 63 of that Act.

Idem

(2) Subsection (1) applies with necessary modifications in respect of employees transferred to the Roman Catholic sector or to the full board in the same manner as to employees transferred to the public sector.

6. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 64 ou désignés en vertu de l'article 65, et qui travaillent dans des écoles secondaires de la section catholique.

(3) L'avis d'intention de négociier est réputé avoir été donné par chacune des sections locales en vertu de l'article 9 de la *Loi sur la négociation collective entre conseils scolaires et enseignants* le 1<sup>er</sup> janvier 1989.

Avis d'intention de négociier réputé donné

L.R.O. 1980, chap. 464

(4) Malgré le paragraphe 4 (1) de la *Loi sur la négociation collective entre conseils scolaires et enseignants*, le paragraphe (1) n'a pas pour effet de restreindre le droit des sections de transférer au conseil plénier, en vertu du paragraphe 4 (4) de la présente loi, leur compétence en matière de négociation collective.

Le transfert de compétence n'est pas restreint

**77** (1) Pour l'application de l'article 63 de la *Loi sur les relations de travail*, les employés qui ne sont pas des enseignants et qui sont mutés des conseils de langue anglaise à la section publique sont réputés réunis et les dispositions suivantes s'appliquent :

Droits du conseil qui succède

L.R.O. 1980, chap. 228

- a) la Commission des relations de travail peut exercer les mêmes pouvoirs que ceux qu'elle peut exercer en vertu des paragraphes 63 (6) et (8) de cette loi relativement à la vente d'une entreprise aux termes de cet article;
- b) la section publique a les mêmes droits et obligations qu'une personne à laquelle est vendue une entreprise aux termes de cet article et qui réunit les employés d'une de ses entreprises avec ceux d'une autre de ses entreprises;
- c) tout syndicat ou conseil de syndicats intéressé a les mêmes droits et obligations qu'il aurait dans le cas d'une réunion d'employés de deux ou plusieurs entreprises aux termes de l'article 63 de cette loi.

(2) Le paragraphe (1) s'applique, avec les adaptations nécessaires, à l'égard des employés mutés à la section catholique ou au conseil plénier de la même façon qu'aux employés mutés à la section publique.

Idem

## PART XIV

MISCELLANEOUS, TRANSITION AND COMPLEMENTARY  
AMENDMENTS

Application  
of Part I of  
R.S.O. 1980,  
c. 129

**78.** Part I of the *Education Act* applies with necessary modifications to the French-language Board.

Visitors,  
religious  
exercises and  
education

**79.** Sections 50, 51 and 136 and subsection 104 (2) of the *Education Act* apply with necessary modifications to the French-language Board.

Transition,  
1988 election

**80.** Despite section 277i of the *Education Act*, no members shall be elected to a French-language section of an English-language board in the regular election to be held in 1988.

Transitional  
period

**81.**—(1) This section applies from the 1st day of December, 1988 to the 31st day of December, 1988.

Non-  
application of  
R.S.O. 1980,  
c. 129,  
s. 277m

(2) Section 277m of the *Education Act* does not apply to the English-language boards.

When  
approval  
required

(3) An English-language board shall not do anything that is described in subsection 277m (1) (exclusive jurisdiction of French-language sections) of the *Education Act* or that may affect its French-language instructional units without the approval of,

- (a) the Roman Catholic sector, in the case of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board; or
- (b) the public sector, in the case of The Ottawa Board of Education and The Carleton Board of Education.

**82.**—(1) Section 1 of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 40, section 3, is further amended by adding thereto the following clause:

- (i) “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

## PARTIE XIV

DISPOSITIONS DIVERSES, DISPOSITIONS TRANSITOIRES ET  
MODIFICATIONS CORRÉLATIVES

- 78** La partie I de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application de la partie I du chap. 129 des L.R.O. de 1980
- 79** Les articles 50, 51 et 136, et le paragraphe 104 (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Visiteurs, exercices et enseignement religieux
- 80** Malgré l'article 277i de la *Loi sur l'éducation*, aucun membre n'est élu à la section de langue française d'un conseil de langue anglaise au cours de l'élection ordinaire devant se tenir en 1988. Disposition transitoire, élection de 1988
- 81** (1) Le présent article s'applique du 1<sup>er</sup> décembre 1988 au 31 décembre 1988. Période de transition
- (2) L'article 277m de la *Loi sur l'éducation* ne s'applique pas aux conseils de langue anglaise. Non-application de l'art. 277m du chap. 129 des L.R.O. de 1980
- (3) Un conseil de langue anglaise ne doit prendre aucune mesure dans un des domaines décrits au paragraphe 277m (1) (compétence exclusive des sections de langue française) de la *Loi sur l'éducation* ni aucune mesure qui pourrait toucher ses modules scolaires de langue française sans l'approbation :
- a) de la section catholique, dans le cas du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton;
  - b) de la section publique, dans le cas du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton.
- 82** (1) L'article 1 de la *Loi sur l'évaluation foncière*, qui constitue le chapitre 31 des *Lois refondues de l'Ontario de 1980*, tel qu'il est modifié par l'article 3 du chapitre 40 des *Lois de l'Ontario de 1982*, est modifié de nouveau par adjonction de l'alinéa suivant :
- (i) «French-speaking person» means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.\*

(2) Subsection 13 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 2 and 1982, chapter 56, section 1, is further amended by adding thereto the following paragraphs:

16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters "p", "s", "fp" or "fs", as the case may be.

(3) Section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsection:

Idem

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.

(4) Subsection 30 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 2, is amended by striking out "paragraphs 1 to 18 of" in the second line and by striking out clause (b) and inserting in lieu thereof:

(b) such person's school support; and

(5) Clause 39 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 40, section 3, is amended by striking out "as a public or separate school supporter" in the first and second lines and inserting in lieu thereof "in respect of school support".



**(2) Le paragraphe 13 (1) de cette loi, tel qu'il est modifié par l'article 2 du chapitre 47 des Lois de l'Ontario de 1981 et par l'article 1 du chapitre 56 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction des dispositions suivantes :**

16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.
- . . . . .
19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters «p», «s», «fp» or «fs», as the case may be.\*

**(3) L'article 15 de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 47 des Lois de l'Ontario de 1981, est modifié par adjonction du paragraphe suivant :**

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.\* Idem

**(4) Le paragraphe 30 (1) de cette loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 58 des Lois de l'Ontario de 1983, est modifié par suppression des mots «paragraphs 1 to 18 of» à la deuxième ligne et par substitution à l'alinéa (b) de ce qui suit :**

- (b) such person's school support; and\*
- . . . . .

**(5) L'alinéa 39 (1) c) de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié par substitution, aux mots «as a public or separate school supporter» aux première et deuxième lignes, des mots «in respect of school support».**

(6) Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 10, is further amended by striking out “as a public or separate school supporter” in the amendment of 1981 and inserting in lieu thereof “in respect of school support”.

**83.** Subsection 275 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Commission  
continued

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.

**84.—(1)** Paragraph 31 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board”.

(2) Section 19 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following clause:

1988, c. ...

(g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.

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

1988, c. ...

6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in

(6) Le paragraphe 50 (1) de cette loi, tel qu'il est modifié par l'article 10 du chapitre 47 des Lois de l'Ontario de 1981, est modifié de nouveau par substitution, aux mots «as a public or separate school supporter», des mots «in respect of school support».

**83** Le paragraphe 275 (1) de la *Loi sur l'éducation*, qui constitue le chapitre 129 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.\*

Commission  
continued

**84** (1) La disposition 31 de l'article 1 de la *Loi sur les élections municipales*, qui constitue le chapitre 308 des Lois refondues de l'Ontario de 1980, est modifiée par adjonction des mots «or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board».

(2) L'article 19 de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986, est modifié de nouveau par adjonction de l'alinéa suivant :

(g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.\*

1988, c. ...

(3) Le paragraphe 49 (1) de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986 et par l'article 11 du chapitre 12 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction de la disposition suivante :

6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in

1988, c. ...

The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

Commence-  
ment

**85.**—(1) This Act, except sections 15 and 62, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 15 and 62 shall be deemed to have come into force on the 30th day of April, 1988.

Short title

**86.** The short title of this Act is the *Ottawa-Carleton French-Language School Board Act, 1988*.

The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.\*

**85** (1) La présente loi, à l'exception des articles 15 et 62, Entrée en vigueur  
entre en vigueur le jour où elle reçoit la sanction royale.

(2) Les articles 15 et 62 sont réputés être entrés en vigueur Idem  
le 30 avril 1988.

**86** Le titre abrégé de la présente loi est *Loi de 1988 sur le* Titre abrégé  
*Conseil scolaire de langue française d'Ottawa-Carleton.*

\*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.









# Bill 109

**An Act to establish  
a French-language  
School Board for  
The Regional Municipality  
of Ottawa-Carleton**

The Hon. C. Ward  
*Minister of Education*

*1st Reading* April 11th, 1988  
*2nd Reading* May 3rd, 1988  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the  
Social Development Committee)*

# Projet de loi 109

**Loi portant création d'un  
Conseil scolaire de  
langue française pour  
la municipalité  
régionale d'Ottawa-Carleton**

L'honorable C. Ward  
*ministre de l'Éducation*

*1<sup>re</sup> lecture* 11 avril 1988  
*2<sup>e</sup> lecture* 3 mai 1988  
*3<sup>e</sup> lecture*  
*sanction royale*

*(Réimprimé tel que modifié par le  
Comité permanent des affaires sociales)*

## EXPLANATORY NOTES

**PART I.** The Bill establishes a French-language school board for the Ottawa-Carleton region. The French-language Board is given exclusive jurisdiction in the Ottawa-Carleton region in respect of school instruction in French-language instructional units.

The French-language Board acts through its full board, its public sector, which is responsible for governing the French-language Board's public schools, and its Roman Catholic sector, which is responsible for governing the French-language Board's Roman Catholic schools.

**PART II.** The Bill allocates jurisdiction for governing the French-language Board among the full board, the public sector and the Roman Catholic sector. Jurisdiction in respect of the matters set out in subsection 4 (1) is given to the public sector in respect of its schools and the Roman Catholic sector in respect of its schools. The sectors may by agreement transfer jurisdiction of matters set out in paragraphs 19 to 29 of that subsection to the full board for the term of election of their members. They may also by agreement resume exclusive jurisdiction. Matters set out in subsection 4 (2) require a majority vote of both sectors. Jurisdiction in respect of matters set out in subsection 4 (3) is given to the full board.

The matters over which the sectors are given irrevocable jurisdiction include all matters concerned with planning, financing and administering instructional units, educational matters in them, hiring and firing teachers, issuing debentures, raising money, requisitioning and receiving funds from municipalities, reporting to the Minister of Education and receiving funds from the Province.

The matters over which the full board is given irrevocable jurisdiction include establishing and maintaining a head office and providing administrative services from it, maintaining buildings, furniture and equipment for the French-language Board and providing insurance for the French-language Board.

**PART III.** Persons who are qualified to attend a school operated by a public board and who have the right under section 23 of the *Canadian Charter of Rights and Freedoms* to be educated in the French language have the right to attend a school operated by the public sector of the French-language Board. If they are qualified to attend a school operated by a separate school board and have the French-language rights, they have the right to attend a school operated by the Roman Catholic sector of the French-language Board. The French-language Board is given discretion to allow persons who do not have French-language rights to attend the French-language Board's schools. Provision is made for agreements to purchase instruction between sectors and between a sector and a board.

**PART IV.** This Part permits ratepayers in the Ottawa-Carleton region to direct their municipal tax support to the public sector or the Roman Catholic sector of the French-language Board in the same manner that separate school supporters may direct their tax support under the *Education Act*. In the result, a ratepayer may be a supporter of any one of a public school board, a separate school board, the public sector of the French-language Board or the Roman Catholic sector of the French-language Board.

Under the *Education Act* the municipal property and business tax support of a corporation is applied to the public schools unless the corporation requires part or all of that tax support to be applied to the separate schools. Under the *Education Act*, the proportion of tax support that a corporation is permitted to apply to the separate schools may not exceed the proportion of its share holdings that are held by Roman Catholics. The Bill similarly allows a corporation to require part or all of its tax support to be applied to the public sector or the Roman Catholic sector of the French-language Board. The proportion of tax support that a corporation is permitted to apply to the public sector may not exceed the proportion of its share holdings that are held by persons with French-language rights. The proportion of tax support that it may apply to the Roman Catholic sector may not exceed the proportion of its share holdings that are held by Roman Catholic

## NOTES EXPLICATIVES

**PARTIE I.** Le projet de loi crée un conseil scolaire de langue française pour la région d'Ottawa-Carleton. Le Conseil de langue française a la compétence exclusive, dans la région d'Ottawa-Carleton, à l'égard de l'enseignement dans les modules scolaires de langue française.

Le Conseil de langue française agit par l'intermédiaire de son conseil plénier, de sa section publique, qui gère les écoles publiques du Conseil de langue française, et de sa section catholique, qui gère les écoles catholiques du Conseil de langue française.

**PARTIE II.** Le projet de loi répartit entre le conseil plénier, la section publique et la section catholique la compétence pour gérer le Conseil de langue française. La compétence à l'égard des questions énoncées au paragraphe 4 (1) appartient à la section publique en ce qui concerne ses écoles, et à la section catholique en ce qui concerne les siennes. Les sections peuvent s'entendre pour transférer au conseil plénier la compétence à l'égard des questions énoncées aux dispositions 19 à 29 de ce paragraphe, pendant le mandat de leurs membres. Elles peuvent également s'entendre pour reprendre la compétence exclusive. Les questions énoncées au paragraphe 4 (2) nécessitent le vote majoritaire des deux sections. La compétence à l'égard des questions énoncées au paragraphe 4 (3) appartient au conseil plénier.

Les questions qui relèvent de la compétence irrévocable des sections comprennent toutes les questions portant sur la planification, le financement et l'administration des modules scolaires, les activités éducatives qui s'y déroulent, l'engagement et le congédiement des enseignants, l'émission de débentures, le fait de recueillir des fonds, la demande et l'obtention de fonds des municipalités, et le fait de rendre compte au ministre de l'Éducation et de recevoir des fonds de la province.

Les questions qui relèvent de la compétence irrévocable du conseil plénier comprennent la création et le maintien d'un siège social et la fourniture des services administratifs qui y sont offerts, l'entretien des bâtiments, de l'ameublement et de l'équipement pour le Conseil de langue française ainsi que la souscription d'assurances pour le Conseil de langue française.

**PARTIE III.** Les personnes qui satisfont aux conditions requises pour fréquenter une école qui relève d'un conseil public et qui ont droit, en vertu de l'article 23 de la *Charte canadienne des droits et libertés*, à l'instruction en français, ont le droit de fréquenter une école qui relève de la section publique du Conseil de langue française. Si elles satisfont aux conditions requises pour fréquenter une école qui relève d'un conseil d'écoles séparées et qu'elles ont droit à l'instruction en français, elles ont le droit de fréquenter une école qui relève de la section catholique du Conseil de langue française. Le Conseil de langue française peut, à sa discrétion, permettre à des personnes qui n'ont pas droit à l'instruction en français de fréquenter une école du Conseil de langue française. Le projet de loi prévoit des ententes en vue de l'achat de services d'enseignement entre les sections, et entre une section et un conseil.

**PARTIE IV.** La présente partie permet aux contribuables de la région d'Ottawa-Carleton d'affecter leurs impôts municipaux au soutien de la section publique ou de la section catholique du Conseil de langue française de la même façon que les contribuables des écoles séparées peuvent affecter leurs impôts en vertu de la *Loi sur l'éducation*. En conséquence, le contribuable peut affecter ses impôts au soutien d'un conseil d'écoles publiques, d'un conseil d'écoles séparées, de la section publique du Conseil de langue française ou de la section catholique de ce conseil.

Aux termes de la *Loi sur l'éducation*, les impôts municipaux, fonciers et commerciaux d'une personne morale sont affectés au soutien des écoles publiques à moins que la personne morale ne demande qu'une partie ou la totalité de ses impôts soit affectée au soutien des écoles séparées. Aux termes de la *Loi sur l'éducation*, la proportion d'impôts qu'une personne morale a le droit d'affecter au soutien des écoles séparées ne doit pas dépasser la proportion de ses actions qui sont détenues par des catholiques. Le projet de

persons with French-language rights. A corporation may divide its tax support among any or all of the four school systems.

**PART V.** To be an elector of a sector of the French-language Board a person must have French-language rights under the Charter. If such a person is qualified under the *Education Act* to be a public school elector he or she may be a public sector elector. If such a person is qualified under the *Education Act* to be a separate school elector, he or she may be a Roman Catholic sector elector. No person is entitled to vote both for members of a sector and for members of another sector or a board under the *Education Act*.

**PART VI.** The French-language Board is given the same duties and powers as a board under the *Education Act*, with the jurisdiction for exercising them being given to the sectors or to the full board as set out in Part II. There is one treasurer appointed for the French-language Board who serves in respect of both sectors and the full board. The sectors and the full board each appoint their own secretary. The Roman Catholic sector is given full power and responsibility to operate at the secondary school level. The French-language Board is required to offer English instruction in grades 5 to 8 and may do so in other grades.

**PART VII.** Members are elected to the sectors and every member of a sector is also a member of the full board. A person is qualified to be elected as a member of a sector if the person is qualified to be an elector in respect of that sector and resides in the Ottawa-Carleton region.

**PART VIII.** The calculation and distribution of members of each sector is to be determined under Part VII-A of the *Education Act*. Neither sector is to have fewer than eight members.

**PART IX.** There is to be one auditor for the French-language Board, to be appointed by agreement between the sectors. Each sector is to have its own estimates and its own financial statement.

The estimates and expenditures of the full board are to be allocated to the sectors and included in the sectors' estimates and financial statements in the same proportion that the average daily enrolment of pupils in each sector bears to the average daily enrolment of the French-language Board. For the purpose of levying and collecting of rates, the public sector and the Roman Catholic sector are treated in the same way as a separate school board.

The sectors are both to share in legislative and municipal grants in the same way as a public board. Provision is also made for special temporary grants for the French-language Board.

**PART X.** Each sector is to appoint a director of education who is responsible to that sector for the development, implementation, operation and supervision of its educational programs and who is the chief executive officer for that sector in its areas of jurisdiction. The full board is to appoint an executive director who is to be the chief executive officer in its areas of jurisdiction. The full board, the public sector and the Roman Catholic sector may each hire supervisory officers in their areas of jurisdiction and two or more of them may hire a supervisory officer to work for both or all of them.

loi permet également à une personne morale de demander qu'une partie ou la totalité de ses impôts soit affectée au soutien de la section publique ou de la section catholique du Conseil de langue française. La proportion d'impôts qu'une personne morale a le droit d'affecter au soutien de la section publique ne doit pas dépasser la proportion de ses actions qui sont détenues par des personnes qui ont droit à l'instruction en français. La proportion d'impôts qu'elle peut affecter au soutien de la section catholique ne doit pas dépasser la proportion de ses actions qui sont détenues par des catholiques qui ont droit à l'instruction en français. Une personne morale peut diviser les impôts qu'elle affecte entre les quatre organisations scolaires ou un nombre quelconque d'entre elles.

**PARTIE V.** Pour être électeur d'une section du Conseil de langue française, une personne doit avoir droit à l'instruction en français en vertu de la Charte. Si cette personne satisfait aux conditions requises aux termes de la *Loi sur l'éducation* pour être électeur des écoles publiques, elle peut être électeur de la section publique. Si elle satisfait aux conditions requises aux termes de la *Loi sur l'éducation* pour être électeur des écoles séparées, elle peut être électeur de la section catholique. Nul n'a le droit de voter à la fois pour des membres d'une section et pour des membres d'une autre section ou d'un conseil aux termes de la *Loi sur l'éducation*.

**PARTIE VI.** Le Conseil de langue française a les mêmes fonctions et pouvoirs qu'un conseil au sens de la *Loi sur l'éducation*, et la compétence pour les exercer est accordée aux sections ou au conseil plénier, selon ce que prévoit la partie II. Un seul trésorier est nommé pour le Conseil de langue française; il est au service des deux sections et du conseil plénier. Les sections et le conseil plénier nomment chacun leur secrétaire. Au niveau secondaire, la section catholique a tous les pouvoirs et l'entière responsabilité. Le Conseil de langue française est tenu d'offrir l'enseignement de l'anglais en 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années et peut le faire dans les autres années.

**PARTIE VII.** Les membres sont élus aux sections et tout membre d'une section est également membre du conseil plénier. Une personne est éligible comme membre d'une section si elle satisfait aux conditions requises pour être électeur à l'égard de cette section et qu'elle réside dans la région d'Ottawa-Carleton.

**PARTIE VIII.** Le calcul et la répartition des membres de chaque section se font aux termes de la partie VII-A de la *Loi sur l'éducation*. Les deux sections doivent avoir au moins huit membres chacune.

**PARTIE IX.** Le Conseil de langue française a un vérificateur qui est nommé d'un commun accord des sections. Chaque section a ses prévisions et ses états financiers.

Les prévisions et les dépenses du conseil plénier sont affectées aux sections et incluses aux prévisions et aux états financiers dans la même proportion que le rapport qui existe entre l'effectif quotidien moyen dans chaque section et l'effectif quotidien moyen au Conseil de langue française. Aux fins de prélever et de percevoir les impôts, la section publique et la section catholique sont assimilées à un conseil d'écoles séparées.

Les sections se partagent les subventions générales et municipales de la même façon qu'un conseil public. Le projet de loi prévoit également des subventions spéciales et temporaires pour le Conseil de langue française.

**PARTIE X.** Chaque section nomme un directeur de l'éducation qui est responsable, devant cette section, de l'élaboration, de la mise en oeuvre, de l'application et de la supervision de ses programmes d'éducation et qui est chef de service administratif de cette section, dans les domaines de compétence de celle-ci. Le conseil plénier nomme un directeur général qui est chef de service administratif dans les domaines de compétence de ce conseil. Le conseil plénier, la section publique et la section catholique peuvent chacun engager des agents de supervision dans leurs domaines de compétence, et deux d'entre eux ou plus peuvent engager un agent de supervision qui est au service des deux ou des trois.

**PART XI.** The Bill provides for resolution of disputes between the sectors or between the French-language Board and one or more public or separate boards in the Ottawa-Carleton region. Disputes between the sectors are to be resolved by panels of the Commission composed only of French-speaking members. The other disputes are to be resolved by the full Commission and for the purpose a quorum is seven. The Bill provides for appointment of a mediator by the parties or, if they cannot agree, by the Commission. The mediator is to inquire into and report on the matter. If there is no agreement the Commission is to consider and inquire into the matter and recommend a course of action. If there is still no agreement the matter is to be referred to an arbitration board, whose decision is binding on the parties. The Languages of Instruction Commission is enlarged from five to nine members in order that it may handle disputes under this Bill.

**PART XII.** All schools belonging to any of the four school boards now in the Ottawa-Carleton region and used on or after January 31, 1988 as French-language schools are to be transferred to the French-language Board on January 1, 1989. Responsibility for debentures issued in respect of those schools is given to the French-language Board. The personal property in the schools is to be transferred as well. The French-language Board and one of the other boards may agree to transfer another school in the place of one identified above. Provision is made for re-allocating a school site from one sector to another if there is a major shift in enrolment of pupils.

The Part provides that each of the presently existing boards in Ottawa-Carleton shall determine by August 31, 1988 which of its other assets and reserves are to be transferred to the French-language Board. The determination is to be based on an equitable contribution to the French-language Board and requires approval by a majority of members of the existing board's French-language Education Council and a majority of its other members. A dispute between these two groups is to be referred to the Commission as a dispute under Part XI. If, after the inception of the French-language Board in December, 1988, a sector does not agree with the decision of an existing board, the sector is to refer the matter to the Commission as a dispute under Part XI.

**PART XIII.** The services of all employees of existing boards who are recruited or assigned to work part or all of their time in or on behalf of French-language schools are assigned to the French-language Board for the period from January 1, 1989 to August 31, 1989. The French-language Board is required to reimburse the appropriate board for those services in an amount to be agreed upon by the boards.

All employees of existing boards who are recruited or assigned to work exclusively in or on behalf of French-language instructional units are to be designated to be transferred to the French-language Board effective September 1, 1989. A designated employee may object to the transfer, in which case another employee will be designated in his or her place if there is another employee who is willing and qualified to be so designated.

Provision is made for the transfer of additional employees from the existing boards to the French-language Board by agreements between the relevant sector and the relevant English-language boards in each of the first three years of the operation of the French-language Board. The Bill also ensures that no employees shall lose their jobs by reason only that their positions become redundant in those three years consequent upon the formation of the French-language Board.

The Part has provisions concerning compensation, sick leave, gratuities upon leaving and seniority for transferred employees and new employees for the first ten years of operation of the French-language Board. Those provisions are subject to any collective agreement negotiated by the French-language Board.

**PARTIE XI.** Le projet de loi prévoit la résolution des conflits entre les sections, ou entre le Conseil de langue française et un ou plusieurs conseils d'écoles publiques ou d'écoles séparées dans la région d'Ottawa-Carleton. Les conflits entre les sections sont résolus par des comités de la Commission, composés de membres francophones seulement. Les autres conflits sont résolus par la Commission entière et, à cette fin, sept membres constituent le quorum. Le projet de loi prévoit la nomination d'un médiateur par les parties ou, si celles-ci sont incapables de s'entendre, par la Commission. Le médiateur fait enquête et présente un rapport sur la question. Si les parties n'arrivent pas à s'entendre, la Commission étudie la question, fait enquête sur celle-ci et recommande des mesures à prendre. S'il n'y a toujours pas d'entente, la question est renvoyée à un conseil d'arbitrage, dont la décision lie les parties. La Commission des langues d'enseignement de l'Ontario passe de cinq à neuf membres afin de pouvoir résoudre les conflits visés par le présent projet de loi.

**PARTIE XII.** Toutes les écoles qui relèvent des quatre conseils scolaires actuels de la région d'Ottawa-Carleton et qui sont utilisées comme écoles de langue française le 31 janvier 1988 ou par la suite sont transférées au Conseil de langue française le 1<sup>er</sup> janvier 1989. La responsabilité des débetures émises à l'égard de ces écoles appartient au Conseil de langue française. Les biens meubles qui se trouvent dans les écoles sont également transférés. Le Conseil de langue française et un des autres conseils peuvent s'entendre pour transférer une autre école à la place d'une de celles qui sont mentionnées ci-dessus. Le projet de loi prévoit une nouvelle attribution d'un emplacement scolaire d'une section à l'autre s'il se produit un déplacement important de l'effectif.

La partie prévoit que chacun des conseils qui existent actuellement dans la région d'Ottawa-Carleton décide, au plus tard le 31 août 1988, quels autres biens et réserves seront transférés au Conseil de langue française. Le calcul est fondé sur une contribution équitable au Conseil de langue française, et nécessite l'approbation de la majorité des membres du conseil de l'enseignement en langue française du conseil existant et de la majorité de ses autres membres. Un conflit entre ces deux groupes est renvoyé à la Commission comme un conflit visé à la partie XI. Si, après l'établissement du Conseil de langue française en décembre 1988, une section n'est pas d'accord avec la décision d'un conseil existant, la section renvoie la question à la Commission comme un conflit visé à la partie XI.

**PARTIE XIII.** Les services de tous les employés des conseils existants qui sont recrutés ou affectés pour travailler en partie ou entièrement dans des écoles de langue française, ou pour leur compte, sont affectés au Conseil de langue française pour la période allant du 1<sup>er</sup> janvier 1989 au 31 août 1989. Le Conseil de langue française est tenu de rembourser ces services au conseil intéressé pour un montant convenu par les conseils.

Tous les employés des conseils existants qui sont recrutés ou affectés pour travailler exclusivement dans des modules scolaires de langue française, ou pour leur compte, sont désignés pour être mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989. Un employé désigné peut s'opposer à la mutation, auquel cas un autre employé sera désigné à sa place s'il y a un autre employé qui accepte d'être muté et qui a les qualifications requises.

Le projet de loi prévoit la mutation d'autres employés des conseils existants au Conseil de langue française au moyen d'ententes entre la section intéressée et les conseils de langue anglaise intéressés, au cours de chacune des trois premières années de fonctionnement du Conseil de langue française. Le projet de loi prévoit également qu'aucun employé ne perdra son emploi parce que son poste est éliminé au cours de ces trois années par suite de la formation du Conseil de langue française.

La partie comporte des dispositions sur la rémunération, les congés de maladie, le droit à un paiement à la fin d'un emploi et l'ancienneté des employés mutés et des nouveaux employés au cours des dix premières années de fonctionnement du Conseil de langue française. Ces dispositions sont assujetties à toute négociation collective négociée par le Conseil de langue française.

Provision is made for negotiation of new contracts for teachers to begin early in 1989 between the sectors and the relevant branch affiliate representing teachers designated for transfer. Provision is also made to determine successor rights in respect of other employees of the French-language Board under the *Labour Relations Act*.

**PART XIV.** During the month of December, 1988, the existing boards are required to obtain the approval of the appropriate sector of the French-language Board before making any decisions that may affect the French-language Board.

Complementary amendments are made to the *Assessment Act*, the *Education Act*, the *Municipal Elections Act* and the *School Boards and Teachers Collective Negotiations Act*.



Le projet de loi prévoit la négociation de nouveaux contrats pour les enseignants à compter du début de l'année 1989, entre les sections et la section locale intéressée qui représente les enseignants désignés pour la mutation. Il établit également les droits du conseil qui succède à l'égard des autres employés du Conseil de langue française aux termes de la *Loi sur les relations de travail*.

**PARTIE XIV.** Au cours du mois de décembre 1988, les conseils existants sont tenus d'obtenir l'approbation de la section intéressée du Conseil de langue française avant de prendre une décision qui pourrait toucher celui-ci.

Des modifications corrélatives sont apportées à la *Loi sur l'évaluation foncière*, à la *Loi sur l'éducation*, à la *Loi sur les élections municipales* et à la *Loi sur la négociation collective entre conseils scolaires et enseignants*.

**Bill 109****1988**

**An Act to establish  
a French-language School Board for  
The Regional Municipality of Ottawa-Carleton**

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

**Projet de loi 109****1988**

**Loi portant création d'un  
Conseil scolaire de langue française pour  
la municipalité régionale d'Ottawa-Carleton**

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

## INTERPRETATION

## Definitions

**1.—(1) In this Act,**

- “municipalité de secteur” “area municipality” means the municipality or corporation of the Township of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier or the Township of West Carleton;
- “Commission”  
R.S.O. 1980,  
c. 129 “Commission” means the Languages of Instruction Commission of Ontario continued under Part XI of the *Education Act*;
- “conseil de langue anglaise” “English-language board” means The Ottawa Board of Education, The Carleton Board of Education, The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board;
- “Conseil de langue française” “French-language Board” means The Ottawa-Carleton French-language School Board;
- “module scolaire de langue française” “French-language instructional unit” means a class, group of classes or school in which French is the language of instruction, but does not include a class, group of classes or school established under clause 8 (1) (y) of the *Education Act* (French-language instruction for English-speaking pupils);
- “franco-phone” “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario;
- “conseil plénier” “full board” means all of the members of the French-language Board;
- “ministre” “Minister” means the Minister of Education;
- “section publique” “public sector” means those members of the French-language Board who are elected as members of the public sector;
- “Région” “Region” means The Regional Municipality of Ottawa-Carleton;
- “section catholique” “Roman Catholic sector” means those members of the French-language Board who are elected as members of the Roman Catholic sector;

## INTERPRÉTATION

- 1** (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions
- «Commission» La Commission des langues d'enseignement de l'Ontario maintenue aux termes de la partie XI de la *Loi sur l'éducation*. «Commission»  
L.R.O. 1980  
chap. 129
- «conseil de langue anglaise» Le Conseil de l'éducation d'Ottawa, le Conseil de l'éducation de Carleton, le Conseil des écoles séparées catholiques d'Ottawa ou le Conseil des écoles séparées catholiques de Carleton. «English-language board»
- «Conseil de langue française» Le Conseil scolaire de langue française d'Ottawa-Carleton. «French-language Board»
- «conseil plénier» L'ensemble des membres du Conseil de langue française. «full board»
- «francophone» Personne qui a le droit, en vertu du paragraphe 23 (1) ou (2), sans tenir compte du paragraphe 23 (3), de la *Charte canadienne des droits et libertés*, de faire instruire ses enfants en français, aux niveaux élémentaire et secondaire, en Ontario. «French-speaking person»
- «ministre» Le ministre de l'Éducation. «Minister»
- «module scolaire de langue française» S'entend d'une classe, d'un groupe de classes ou d'une école dans lesquelles le français est la langue d'enseignement, à l'exclusion toutefois d'une classe, d'un groupe de classes ou d'une école créées en vertu de l'alinéa 8 (1) y) de la *Loi sur l'éducation* (enseignement en langue française à l'intention des élèves anglophones). «French-language instructional unit»
- «municipalité de secteur» La municipalité du canton de Cumberland, de la cité de Gloucester, du canton de Goulbourn, de la cité de Kanata, de la cité de Nepean, du canton d'Osgoode, de la cité d'Ottawa, du canton de Rideau, du village de Rockcliffe Park, de la cité de Vanier ou du canton de Carleton ouest. «area municipality»
- «organisation scolaire» S'entend d'un conseil d'écoles séparées dans la Région, d'un conseil d'écoles publiques dans la Région, de la section publique ou de la section catholique. «school system»
- «Région» La municipalité régionale d'Ottawa-Carleton. «Region»
- «section catholique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section catholique. «Roman Catholic sector»

“organisation  
scolaire”

“school system” means a separate school board in the Region, a public board in the Region, the public sector or the Roman Catholic sector.

Regulations  
under R.S.O.  
1980, c. 129

(2) A reference in this Act to the *Education Act* or to a provision of it shall be deemed to include a reference to the regulations made under that Act or provision.

Definitions  
under R.S.O.  
1980, c. 129

(3) Except where otherwise provided in this Act, words and expressions used in this Act have the same meaning as in section 1 of the *Education Act*.

Application  
of  
R.S.O. 1980,  
c. 129, s. 1

(4) Subsections 1 (2) and (4) of the *Education Act* apply with necessary modifications in respect of the French-language Board.

Application  
of  
Constitution  
Act, 1867

(5) The provisions of this Act shall not be construed in a way that prejudicially affects a right or privilege with respect to denominational schools guaranteed by *The Constitution Act, 1867*.

Idem

(6) If it is finally determined by a court that a provision of this Act prejudicially affects a right or privilege enjoyed by Roman Catholic separate school boards under *The Constitution Act, 1867*, that provision is repealed, it being the intention of the Legislature that the remaining provisions of this Act are separate from and independent of the said provision.

## PART I

### FRENCH-LANGUAGE SCHOOL BOARD ESTABLISHED

French-  
language  
school board

**2.**—(1) There is established on the 1st day of December, 1988 a school board for French-language instruction in the Region under the name “The Ottawa-Carleton French-language School Board”.

Idem

(2) The French-language Board is a body corporate.

Jurisdiction  
of French-  
language  
Board  
R.S.O. 1980,  
c. 129

(3) On and after the 1st day of January, 1989, the French-language Board has all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in French-language instructional units.

- «section publique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section publique. «public sector»
- (2) Dans la présente loi, un renvoi à la *Loi sur l'éducation* ou à une disposition de celle-ci est réputé inclure un renvoi aux règlements pris en application de cette loi ou de cette disposition. Règlements pris en application du chap. 129 des L.R.O. de 1980
- (3) Sauf dispositions contraires de la présente loi, les termes et expressions utilisés dans la présente loi s'entendent au sens de l'article 1 de la *Loi sur l'éducation*. Définitions du chap. 129 des L.R.O. de 1980
- (4) Les paragraphes 1 (2) et (4) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Champ d'application de l'art. 1 du chap. 129 des L.R.O. de 1980
- ▼ (5) Les dispositions de la présente loi ne doivent pas être interprétées de façon à porter préjudice à un droit ou à un privilège en ce qui concerne les écoles confessionnelles qui est garanti par la *Loi constitutionnelle de 1867*. Champ d'application de la *Loi constitutionnelle de 1867*
- (6) Si un tribunal décide finalement qu'une disposition de la présente loi porte préjudice à un droit ou à un privilège en ce qui concerne les écoles confessionnelles qui est garanti par la *Loi constitutionnelle de 1867*, cette disposition est abrogée, l'intention du législateur étant que les autres dispositions de la présente loi soient distinctes et indépendantes de cette disposition. Idem ▲

## PARTIE I

### CRÉATION DU CONSEIL SCOLAIRE DE LANGUE FRANÇAISE

- 2** (1) Est créé, le 1<sup>er</sup> décembre 1988, un conseil scolaire chargé de l'enseignement en langue française dans la Région. Il porte le nom de «Conseil scolaire de langue française d'Ottawa-Carleton». Conseil scolaire de langue française
- (2) Le Conseil de langue française est une personne morale. Idem
- (3) À compter du 1<sup>er</sup> janvier 1989, le Conseil de langue française possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les modules scolaires de langue française. Compétence du Conseil de langue française L.R.O. 1980, chap. 129

Jurisdiction of English-language boards  
R.S.O. 1980, c. 129

(4) On and after the 1st day of January, 1989, the English-language boards have all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in classes, groups of classes or schools other than French-language instructional units.

French-language instruction

(5) On and after the 1st day of January, 1989, Parts XI and XI-A of the *Education Act* do not apply to the English-language boards.

Composition of French-language Board

**3.**—(1) The French-language Board shall have a public sector and a Roman Catholic sector.

Full board

(2) The members of the public sector and the members of the Roman Catholic sector together constitute the full board.

Authority of public sector

(3) The public sector shall govern for the French-language Board the public elementary and secondary schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of Roman Catholic sector

(4) The Roman Catholic sector shall govern for the French-language Board the Roman Catholic elementary and secondary schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of full board

(5) The full board shall exercise the powers, duties and rights assigned to it by this Act.

Matters within exclusive jurisdiction of sectors

(6) Any power, duty or right assigned to the public sector or to the Roman Catholic sector is within the exclusive jurisdiction of the members of the sector to which it is assigned, and a decision of those members with regard to that power, duty or right is a decision of the French-language Board.

Matters within exclusive jurisdiction of full board

(7) Any power, duty or right assigned to the full board is within the exclusive jurisdiction of the full board and a decision of the full board with regard to that power, duty or right is a decision of the French-language Board.

## PART II

### JURISDICTION OF FULL BOARD AND SECTORS

Exclusive jurisdiction of sectors

**4.**—(1) The following matters are within the exclusive jurisdiction of the public sector in respect of the schools and classes that it governs and within the exclusive jurisdiction of the Roman Catholic sector in respect of the schools and classes that it governs:



- (4) À compter du 1<sup>er</sup> janvier 1989, les conseils de langue anglaise possèdent tous les pouvoirs et accomplissent toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les classes, les groupes de classes ou les écoles autres que les modules scolaires de langue française.
- Compétence des conseils de langue anglaise  
L.R.O. 1980, chap. 129
- (5) À compter du 1<sup>er</sup> janvier 1989, les parties XI et XI-A de la *Loi sur l'éducation* ne s'appliquent pas aux conseils de langue anglaise.
- Enseignement en français
- 3** (1) Le Conseil de langue française comprend une section publique et une section catholique.
- Composition du Conseil de langue française
- (2) Les membres de la section publique et les membres de la section catholique constituent ensemble le conseil plénier.
- Conseil plénier
- (3) La section publique gère, pour le Conseil de langue française, les écoles et les classes élémentaires et secondaires publiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.
- Mandat de la section publique
- (4) La section catholique gère, pour le Conseil de langue française, les écoles et les classes élémentaires et secondaires catholiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.
- Mandat de la section catholique
- (5) Le conseil plénier exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.
- Mandat du conseil plénier
- (6) Les pouvoirs, les fonctions ou les droits attribués à la section publique ou à la section catholique relèvent de la compétence exclusive des membres de la section à laquelle ils sont attribués, et une décision de ces membres à l'égard de ces pouvoirs, fonctions ou droits est une décision du Conseil de langue française.
- Questions relevant de la compétence exclusive des sections
- (7) Les pouvoirs, les fonctions ou les droits attribués au conseil plénier relèvent de la compétence exclusive du conseil plénier, et une décision de celui-ci à l'égard de ces pouvoirs, fonctions ou droits est une décision du Conseil de langue française.
- Questions relevant de la compétence exclusive du conseil plénier

## PARTIE II

### COMPÉTENCE DU CONSEIL PLÉNIER ET DES SECTIONS

- 4** (1) Les questions suivantes relèvent de la compétence exclusive de la section publique relativement aux écoles et aux classes qu'elle gère, et de la compétence exclusive de la sec-
- Compétence exclusive des sections

1. Planning, establishing and financing instructional units.
2. Administering and closing instructional units.
3. Planning, establishing, implementing and maintaining programs and courses for pupils enrolled in the instructional units.
4. Providing instructional and learning materials.
5. Schools for trainable retarded children and vocational courses.
6. School attendance and visitors to schools.
7. Admitting pupils and entering into agreements with other boards and with the other sector concerning the admission of pupils.
8. Issuing debentures.
9. Investing and borrowing money.
10. Receiving revenue for school purposes, including but not limited to grants and money from municipal levies.
11. Appointing, assigning and removing teachers and other employees in respect of matters within the sector's jurisdiction.
12. Appointing the secretary for the sector.
13. Prescribing the duties of teachers and other employees.
14. Any matter relating to meetings and records of the sector.
15. Advisory committees and special education advisory committees.
16. Counselling services.

tion qu'elle gère relativement aux écoles et aux classes catholiques :

1. La planification, la création et le financement de modules scolaires.
2. L'administration et la fermeture de modules scolaires.
3. La planification, la création, la mise en oeuvre et la poursuite de programmes et de cours à l'intention des élèves inscrits dans les modules scolaires.
4. L'approvisionnement en matériel pédagogique et d'apprentissage.
5. Les écoles pour enfants déficients moyens et les cours de formation professionnelle.
6. La fréquentation scolaire et l'admission de visiteurs dans les écoles.
7. L'admission d'élèves et la conclusion d'ententes avec d'autres conseils et avec l'autre section relativement à l'admission d'élèves.
8. L'émission de débentures.
9. Le placement et l'emprunt de sommes d'argent.
10. L'obtention de revenus aux fins scolaires, y compris, notamment, les subventions et les sommes prélevées par les municipalités.
11. La nomination, l'affectation et la révocation d'enseignants et d'autres employés, à l'égard des questions relevant de la compétence de la section.
12. La nomination du secrétaire de la section.
13. La définition des fonctions des enseignants et des autres employés.
14. Les questions relatives aux réunions et aux dossiers de la section.
15. Les comités consultatifs, et les comités consultatifs pour l'enfance en difficulté.
16. Les services d'orientation.

17. Professional development of employees.
18. Establishing committees for the sector.
19. Determining the terms on which teachers and other employees are to be employed and fixing their salaries.
20. Collective bargaining in respect of teachers and other employees.
21. Providing transportation for pupils.
22. Providing school supplies other than instructional and learning materials.
23. Operating cafeterias for employees and pupils.
24. Providing benefits in respect of employees.
25. Providing administrative support services necessary to carry out a power or duty of the sector.
26. Allowances for members.
27. Providing services of psychologists, psychometrists and language pathologists and other specialized services.
28. Maintenance of a media centre.
29. Any other matter not provided for in this Act.

Matters  
requiring  
approval by  
both sectors

(2) The following matters are within the exclusive jurisdiction of both sectors and require approval by a majority of members of each sector:

1. Appointing and removing the executive director, fixing his or her salary, providing his or her benefits, determining the terms of his or her employment and prescribing his or her duties.

17. Le perfectionnement professionnel des employés.
18. La création de comités pour la section.
19. L'établissement des conditions d'emploi des enseignants et des autres employés, et la fixation de leur salaire.
20. Les négociations collectives à l'égard des enseignants et des autres employés.
21. Le transport des élèves.
22. L'approvisionnement en fournitures scolaires, à l'exclusion du matériel pédagogique et d'apprentissage.
23. L'exploitation de cafétérias à l'usage des employés et des élèves.
24. Les avantages offerts aux employés.
25. La fourniture des services de soutien administratif nécessaires à l'exercice d'un pouvoir ou d'une fonction de la section.
26. Les allocations versées aux membres.
27. La fourniture de services de psychologues, de psychométriciens et d'orthophonistes, et d'autres services spécialisés.
28. Le maintien d'un centre de médias.
29. Toute autre question qui n'est pas prévue par la présente loi.

(2) Les questions suivantes relèvent de la compétence exclusive des deux sections et nécessitent l'approbation de la majorité des membres de chaque section :

Questions  
nécessitant  
l'approbation  
des deux  
sections

1. La nomination et la révocation du directeur général, la fixation de son salaire, l'attribution de ses avantages et l'établissement de ses conditions d'emploi ainsi que la définition de ses fonctions.

2. Appointing and removing the auditor for the French-language Board.

Exclusive  
jurisdiction  
of full board

▶ (3) The following matters are within the exclusive jurisdiction of the full board:

1. Establishing and maintaining the head office for the French-language Board and providing administrative services operated from it.
2. Any matter related to meetings and records of the full board.
3. Establishing committees for the full board.
4. Maintaining buildings and premises and furniture and equipment for the French-language Board.
5. Providing all property and liability insurance for the French-language Board.
6. Appointing the treasurer for the French-language Board.
7. Appointing the secretary for the full board.
8. Appointing and removing employees, other than the executive director, in respect of matters within the full board's jurisdiction.
9. Determining the terms on which employees described in paragraph 8 are to be employed, prescribing their duties, fixing their salaries and providing their benefits.
10. An allowance for the chairman of the full board.
11. Collective bargaining in respect of its employees.
12. Professional development of its employees.

Transfer of  
jurisdiction

(4) The public sector and the Roman Catholic sector may by majority resolutions of both sectors transfer the exclusive jurisdiction over part or all of any matter described in paragraphs 19 to 29 of subsection (1) from the sectors to the full board.

2. La nomination et la révocation du vérificateur du Conseil de langue française.

(3) Les questions suivantes relèvent de la compétence exclusive du conseil plénier :

Compétence exclusive du conseil plénier

1. La création et le maintien du siège social du Conseil de langue française et la fourniture des services qui y sont offerts.
2. Les questions relatives aux réunions et aux dossiers du conseil plénier.
3. La création de comités pour le conseil plénier.
4. L'entretien des bâtiments et lieux, de l'ameublement et de l'équipement du Conseil de langue française.
5. La souscription de toutes les assurances responsabilité et de toutes les assurances sur les biens du Conseil de langue française.
6. La nomination du trésorier du Conseil de langue française.
7. La nomination du secrétaire du conseil plénier.
8. La nomination et la révocation des employés, autres que le directeur général, à l'égard des questions relevant de la compétence du conseil plénier.
9. L'établissement des conditions d'emploi des employés visés à la disposition 8, la définition de leurs fonctions, la fixation de leur salaire et l'attribution de leurs avantages.
10. L'allocation versée au président du conseil plénier.
11. Les négociations collectives à l'égard de ses employés.
12. Le perfectionnement professionnel de ses employés.

(4) La section publique et la section catholique peuvent, par voie de résolutions majoritaires des deux sections, transférer des sections au conseil plénier la compétence exclusive à l'égard d'une partie ou de la totalité d'une question décrite aux dispositions 19 à 29 du paragraphe (1).

Transfert de compétence

- Idem (5) A transfer of jurisdiction under subsection (4) may be made subject to any condition, if both resolutions so provide, but there shall not be a transfer of jurisdiction under subsection (4) unless the resolutions are subject to the same conditions.
- Reversion of jurisdiction (6) Subject to subsection (7), the jurisdiction transferred to the full board is transferred back to the sectors at the end of the term of office of the members who resolved that it be transferred to the full board.
- Idem (7) The public sector or the Roman Catholic sector may by resolution transfer back to the sectors the exclusive jurisdiction over a matter transferred to the full board under subsection (4).
- Idem (8) The transfer of exclusive jurisdiction back to the sectors takes effect at the end of the fiscal year of the French-language Board unless the sectors by majority resolutions of both of them agree that it take effect on an earlier date.
- Notice to Minister (9) The secretary of the full board shall transmit to the Minister notice of a transfer of jurisdiction under subsection (4) or (7) forthwith after the transfer.
- Failure to agree (10) Part XI does not apply to a matter described in subsection (4), (5) or (8).
- Agreements (11) If the subject-matter of an agreement to be made by the French-language Board is within the exclusive jurisdiction of,
  - (a) the full board, the agreement shall be made by the full board;
  - (b) the public sector or Roman Catholic sector, the agreement shall be made by the relevant sector.
- Religious instruction (12) Religious instruction is within the exclusive jurisdiction of the public sector in respect of the schools and classes that it governs.
- Religious education (13) Religious education is within the exclusive jurisdiction of the Roman Catholic sector in respect of the schools and classes that it governs.
- Acquisition of property (14) The full board shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the acquisition of real or personal property that is to be used by the full board.



(5) Le transfert de compétence visé au paragraphe (4) peut être assujéti à une condition si les deux résolutions le prévoient, mais il n'y a pas de transfert de compétence en vertu du paragraphe (4) à moins que les résolutions ne soient assujétiées aux mêmes conditions. Idem

(6) Sous réserve du paragraphe (7), la compétence transférée au conseil plénier est remise aux sections à la fin du mandat des membres qui ont décidé de la transférer au conseil plénier. Remise de compétence

(7) La section publique ou la section catholique peut, par voie de résolution, remettre aux sections la compétence exclusive à l'égard d'une question transférée au conseil plénier en vertu du paragraphe (4). Idem

(8) La remise de la compétence exclusive aux sections entre en vigueur à la fin de l'exercice du Conseil de langue française, à moins que les sections ne conviennent, par voie de résolutions majoritaires des deux, qu'il entre en vigueur à une date antérieure. Idem

(9) Le secrétaire du conseil plénier avise le ministre d'un transfert de compétence effectué en vertu du paragraphe (4) ou (7) immédiatement après le transfert. Avis au ministre

(10) La partie XI ne s'applique pas aux questions décrites aux paragraphes (4), (5) et (8). Défaut d'entente

(11) Si l'objet d'une entente que doit conclure le Conseil de langue française relève de la compétence exclusive : Ententes

- a) du conseil plénier, l'entente est conclue par ce dernier;
- b) de la section publique ou de la section catholique, l'entente est conclue par la section intéressée.

(12) L'enseignement religieux relève de la compétence exclusive de la section publique en ce qui concerne les écoles et les classes qu'elle gère. Enseignement religieux

(13) L'enseignement religieux relève de la compétence exclusive de la section catholique en ce qui concerne les écoles et les classes qu'elle gère. Enseignement religieux

(14) Le conseil plénier exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de l'acquisition de biens immeubles ou de biens meubles devant être utilisés par le conseil plénier. Acquisition de biens

Idem

(15) The public sector or the Roman Catholic sector shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the acquisition of real or personal property that is to be used by that sector.

Disposal of property

(16) The full board shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the sale, lease or disposal of real or personal property that was acquired by the full board or re-allocated to the full board under Part XII.

Idem

(17) The public sector or the Roman Catholic sector shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the sale, lease or disposal of real or personal property that was acquired by that sector or was allocated to that sector and not re-allocated to the full board under Part XII. ▲

Interpretation of provisions of R.S.O. 1980, c. 129

5.—(1) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the public sector, the Region shall be deemed to be a public school section and a secondary school district and the French-language instructional units of the public sector shall be deemed to be elementary schools and secondary schools, as the case may be, operated by a divisional board of education.

Idem R.S.O. 1980, c. 129

(2) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the Roman Catholic sector, the Region shall be deemed to be an urban separate school zone and the French-language instructional units of the Roman Catholic sector shall be deemed to be urban separate schools operated by a Roman Catholic school board.

Idem

(3) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the full board, the Region shall be deemed to be a public school section and a secondary school district and the full board shall be deemed to be a divisional board of education.

### PART III

#### SCHOOL ATTENDANCE

Application of R.S.O. 1980, c. 129

6. Sections 17 to 27 and 29 to 31 of the *Education Act* apply with necessary modifications to the French-language Board.

(15) La section publique ou la section catholique exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de l'acquisition de biens immeubles ou de biens meubles devant être utilisés par cette section. Idem

(16) Le conseil plénier exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de la disposition, notamment par vente ou location, de biens immeubles ou de biens meubles acquis par le conseil plénier ou attribués de nouveau au conseil plénier en vertu de la partie XII. Disposition de biens

(17) La section publique ou la section catholique exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de la disposition, notamment par vente ou location, de biens immeubles ou de biens meubles qui ont été acquis par cette section ou attribués à cette section et non attribués de nouveau au conseil plénier en vertu de la partie XII. Idem

5 (1) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section publique, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et les modules scolaires de langue française de la section publique sont réputés des écoles élémentaires et des écoles secondaires, selon le cas, qui relèvent d'un conseil de l'éducation de division scolaire. Interprétation des dispositions du chap. 129 des L.R.O. de 1980

(2) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section catholique, la Région est réputée une zone urbaine d'écoles séparées, et les modules scolaires de langue française de la section catholique sont réputés des écoles séparées urbaines qui relèvent d'un conseil d'écoles catholiques. Idem  
L.R.O. 1980,  
chap. 129

(3) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence du conseil plénier, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et le conseil plénier est réputé un conseil de l'éducation de division scolaire. Idem

### PARTIE III

#### FRÉQUENTATION SCOLAIRE

6 Les articles 17 à 27 et 29 à 31 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application du chap. 129 des L.R.O. de 1980

Resident  
pupil qualifi-  
cation, public  
sector

7.—(1) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the public sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a French-speaking person who is not a public school supporter, a separate school supporter or a supporter of the Roman Catholic sector; or
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the public sector.

Resident  
pupil qualifi-  
cation,  
Roman  
Catholic  
sector

(2) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the Roman Catholic sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a supporter of that sector; or
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the Roman Catholic sector.

Resident  
pupil  
qualification

(3) A person who is the child of a French-speaking person is qualified to be a resident pupil in respect of a secondary school operated by the public sector or by the Roman Catholic sector if the person is over eighteen years of age and has resided in the Region for the twelve months immediately before his or her admission to a school operated by that sector or to a school operated by a board to which that sector pays fees on the person's behalf.

Idem

(4) The requirement in subsection (1) or (2) that the person be less than twenty-one years of age does not apply for secondary school purposes.

Resident  
pupil

(5) A person who is qualified to be a resident pupil of a sector is a resident pupil if the person enrolls in a school operated by that sector or in a school operated by the other sector or a board to which the sector pays fees on the person's behalf.

7 (1) Quiconque atteint six ans au cours d'une année satisfait, après le 1<sup>er</sup> septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section publique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions  
requises pour  
être élève  
résident de la  
section  
publique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un francophone qui n'est pas contribuable des écoles publiques, des écoles séparées ni de la section catholique;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section publique.

(2) Quiconque atteint six ans au cours d'une année satisfait, après le 1<sup>er</sup> septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section catholique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions  
requises pour  
être élève  
résident de la  
section  
catholique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un contribuable de cette section;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section catholique.

(3) Une personne dont le père ou la mère est francophone satisfait aux conditions requises pour être élève résident en ce qui concerne une école secondaire qui relève de la section publique ou de la section catholique si elle a plus de dix-huit ans et qu'elle a résidé dans la Région pendant les douze mois précédant son admission à une école qui relève de cette section ou à une école qui relève d'un conseil auquel cette section verse des droits de scolarité au nom de la personne.

Conditions  
requises pour  
être élève  
résident d'une  
école  
secondaire

(4) La nécessité, prévue au paragraphe (1) ou (2), d'avoir moins de vingt et un ans ne s'applique pas aux fins des écoles secondaires.

Idem

(5) La personne qui satisfait aux conditions requises pour être élève résident d'une section est élève résident si elle s'inscrit dans une école qui relève de cette section ou dans une école qui relève de l'autre section ou d'un conseil auquel la section verse des droits de scolarité au nom de cette personne.

Élève  
résident

Evidence as to right to attend

(6) It is the responsibility of the parent or guardian to submit evidence that a child has a right to attend an elementary school operated by a sector, including proof of age, if necessary.

Admission if pupil moves into residence not assessed in accordance with school support

8. If a child who would otherwise have the right to attend a school operated by one school system moves with his or her parent or guardian who is a supporter of that school system into a residence that is assessed to the support of another school system, and the latest date upon which the assessment of the residence may be changed to support of the first named school system has passed, upon the filing of a notice of change of support for the following year with the assessment commissioner, the child shall be admitted without the payment of a fee, to a school operated by that school system.

Kindergarten, exceptional pupils  
R.S.O. 1980, c. 129

9.—(1) Sections 33 to 36 of the *Education Act* apply with necessary modifications to the French-language Board.

Accessible schools, right to attend

(2) Section 38 of the *Education Act* applies with necessary modifications to a pupil seeking to be admitted to,

- (a) a French-language instructional unit of a nearer school that is not in the Region, if the pupil is a resident pupil of a sector; and
- (b) a nearer school operated by a sector, if the pupil is a resident pupil in respect of a board that is not in the Region and is the child of a French-speaking person.

Admission of adult resident

(3) Subsection 39 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Other issues of admission

(4) Sections 40 to 48 of the *Education Act* apply with necessary modifications to the French-language Board.

Right to attend secondary school  
R.S.O. 1980, c. 129

(5) Section 1360 of the *Education Act* applies with necessary modifications to the French-language Board to permit a person who is the child of a French-speaking person to transfer,

- (a) from one sector to another;
- (b) from the public sector to The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board, if the per-

(6) Il appartient au père, à la mère ou au tuteur de présenter les documents prouvant qu'un enfant a le droit de fréquenter une école élémentaire qui relève d'une section, y compris, le cas échéant, ceux qui attestent son âge.

Preuve du droit de fréquenter une école

8 Si un enfant qui aurait autrement le droit de fréquenter une école relevant d'une organisation scolaire déménage avec son père, sa mère ou son tuteur qui est contribuable de cette organisation scolaire dans une résidence qui fait l'objet d'une cotisation en faveur d'une autre organisation scolaire et que la date ultime à laquelle la cotisation de cette résidence peut être changée en faveur de la première organisation scolaire mentionnée est passée, l'enfant est admis, dès le dépôt auprès du commissaire à l'évaluation d'un avis de changement de statut de contribuable pour l'année suivante, sans l'acquittement de droits de scolarité, à une école qui relève de cette organisation scolaire.

Admission d'un élève qui déménage dans une résidence dont la cotisation ne correspond pas au soutien scolaire

9 (1) Les articles 33 à 36 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Jardin d'enfants, élèves en difficulté  
L.R.O. 1980, chap. 129

(2) L'article 38 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'élève qui cherche à être admis :

Droit de fréquenter des écoles

- a) à un module scolaire de langue française d'une école plus proche qui n'est pas située dans la Région, si l'élève est élève résident d'une section;
- b) à une école plus proche relevant d'une section, si l'élève est élève résident à l'égard d'un conseil qui n'est pas situé dans la Région et si son père ou sa mère est francophone.

(3) Le paragraphe 39 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Admission d'un adulte résident

(4) Les articles 40 à 48 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.


Autres problèmes d'admission

(5) L'article 136o de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française afin de permettre à la personne dont le père ou la mère est francophone de passer :

Droit de fréquenter une école secondaire  
L.R.O. 1980, chap. 129

- a) d'une section à l'autre;
- b) de la section publique au Conseil des écoles séparées catholiques d'Ottawa ou au Conseil des écoles séparées catholiques de Carleton, si la personne

son resides within the area of jurisdiction of that separate school board;

- (c) from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate Board to the public sector;
- (d) from the Roman Catholic sector to The Ottawa Board of Education or The Carleton Board of Education, if the person resides within the area of jurisdiction of that board of education;
- (e) from The Ottawa Board of Education or The Carleton Board of Education to the Roman Catholic sector. 

Right to  
attend school  
of sector

**10.—(1)** A person is entitled to be a pupil in a school operated by the public sector if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by a public board in the Region; and
- (b) is the child of a French-speaking person.

Idem

(2) A person is entitled to be a pupil in a school operated by the Roman Catholic sector if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by a separate school board in the Region; and
- (b) is the child of a French-speaking person.

Right to  
attend school  
of board

(3) A person is entitled to be a pupil in a school operated by a public board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by the public sector; and
- (b) resides in the area of jurisdiction of that public board.

Idem

(4) A person is entitled to be a pupil in a school operated by a separate school board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by the Roman Catholic sector; and



réside dans le ressort de ce conseil d'écoles séparées;

- c) du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton à la section publique;
- d) de la section catholique au Conseil de l'éducation d'Ottawa ou au Conseil de l'éducation de Carleton, si la personne réside dans le ressort de ce conseil de l'éducation;
- e) du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton à la section catholique.

**10** (1) Une personne a le droit d'être élève d'une école qui relève de la section publique si :

Droit de fréquenter une école d'une section

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève d'un conseil public dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(2) Une personne a le droit d'être élève d'une école qui relève de la section catholique si :

Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève d'un conseil d'écoles séparées dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(3) Une personne a le droit d'être élève d'une école qui relève d'un conseil public dans la Région si :

Droit de fréquenter une école d'un conseil

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève de la section publique;
- b) d'autre part, elle réside dans le ressort de ce conseil public.

(4) Une personne a le droit d'être élève d'une école qui relève d'un conseil d'écoles séparées dans la Région si :

Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève de la section catholique;

- (b) resides in the area of jurisdiction of that separate school board.

Fee

(5) The board or sector in respect of which the child is qualified to be a resident pupil shall pay to the sector or board whose school the child attends a fee equal to the lesser of,

- (a) the fee set by the board or sector; or

- (b) the fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

Admission of  
pupils other  
than French-  
speaking  
pupils

**11.—**(1) If the parent or guardian of a child under the age of eighteen years is not a French-speaking person and the child would qualify to be a resident pupil of a sector if the child's parent or guardian were a French-speaking person, the parent or guardian may request that the child be admitted as a pupil of that sector.

Idem

(2) A person eighteen years of age or older who is not the child of a French-speaking person and who but for that fact would qualify to be a resident pupil of a sector may request to be admitted as a pupil of that sector.

Idem

(3) A sector, on receipt of a request under this section, may admit the person as a pupil if the admission is approved by a majority vote of an admissions committee appointed by the sector and composed of the principal of the school to which admission is sought, a teacher of that school and a supervisory officer employed by the sector.

Fees

(4) If a person is admitted as a pupil of a sector under this section, the board in which the person is qualified to be a resident pupil shall pay to the sector a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

Agreement  
with other  
sector

**12.—**(1) The Roman Catholic sector and the public sector may enter into an agreement to provide instruction of pupils of one sector in a school or schools operated by the other sector.

- b) d'autre part, elle réside dans le ressort de ce conseil d'écoles séparées.

(5) Le conseil ou la section à l'égard duquel ou de laquelle l'enfant satisfait aux conditions requises pour être élève résident paie à la section ou au conseil dont relève l'école que l'enfant fréquente des droits de scolarité équivalant au moindre des montants suivants :

Droits de scolarité

- a) les droits de scolarité fixés par le conseil ou la section;
- b) les droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

L.R.O. 1980, chap. 129

**11** (1) Si le père, la mère ou le tuteur d'un enfant âgé de moins de dix-huit ans n'est pas francophone et que cet enfant satisferait aux conditions requises pour être élève résident d'une section si son père, sa mère ou son tuteur était francophone, le père, la mère ou le tuteur peut demander que l'enfant soit admis comme élève de cette section.

Admission d'élèves non francophones

(2) La personne âgée de dix-huit ans ou plus dont ni le père ni la mère n'est francophone, et qui, si ce n'était ce fait, satisferait aux conditions requises pour être élève résident d'une section peut demander à être admise comme élève de cette section.

Idem

(3) La section qui reçoit une demande présentée en vertu du présent article peut admettre la personne comme élève, si l'admission est approuvée par un vote majoritaire d'un comité d'admission établi par la section et composé du directeur de l'école à laquelle l'admission est demandée, d'un enseignant de cette école et d'un agent de supervision employé par la section.

Idem

(4) Si une personne est admise comme élève d'une section en vertu du présent article, le conseil à l'égard duquel la personne satisfait aux conditions requises pour être élève résident paie à la section des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

L.R.O. 1980, chap. 129

**12** (1) La section catholique et la section publique peuvent conclure une entente en vue de dispenser l'enseignement aux élèves d'une section dans une ou plusieurs écoles qui relèvent de l'autre section.

Entente avec l'autre section

Fees

(2) The sector requesting instruction shall pay to the sector providing instruction a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

## PART IV

### FRENCH-LANGUAGE SCHOOL SUPPORT

Exemption of  
supporters  
from public  
school rates

**13.**—(1) Every person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns, who in any year becomes a supporter of the public sector or of the Roman Catholic sector, is exempt from the payment of all rates imposed on such land for public school purposes for the following year and every subsequent year while the person continues to be such a supporter with respect to such land.

Who may be  
supporters

(2) A person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns may be,

- (a) a supporter of the Roman Catholic sector, if the person is a French-speaking person and a Roman Catholic;
- (b) a supporter of the public sector, if the person is a French-speaking person.

Becoming a  
supporter

(3) A person becomes a supporter of the public sector or of the Roman Catholic sector in a year if the person is entitled under subsection (2) to be such a supporter and,

- (a) the person, acting alone or by an agent, before the return of the assessment roll in that year, gives to the assessment commissioner notice in writing that the person desires to be such a supporter;
- (b) in that year the person is shown as being such a supporter on the school support list as prepared or revised by the assessment commissioner under section 15 of the *Assessment Act*; or

R.S.O. 1980,  
c. 31

(2) La section qui demande l'enseignement paie à la section qui le dispense des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

L.R.O. 1980, chap. 129

## PARTIE IV

### SOUTIEN SCOLAIRE DES ÉCOLES DE LANGUE FRANÇAISE

**13** (1) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient, et devient, au cours de l'année, contribuable de la section publique ou de la section catholique, est exempté du versement des cotisations scolaires perçues sur ce terrain aux fins des écoles publiques pour l'année suivante et les années ultérieures tant qu'il est contribuable de cette section en ce qui concerne ce terrain.

Exemption de cotisations scolaires aux fins des écoles publiques

(2) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient peut être :

Qui peut être contribuable

- a) contribuable de la section catholique s'il est francophone et catholique;
- b) contribuable de la section publique s'il est francophone.

(3) Une personne devient, au cours d'une année donnée, contribuable de la section publique ou de la section catholique si elle en a le droit en vertu du paragraphe (2) et si elle satisfait à l'une des conditions suivantes :

Comment on devient contribuable

- a) elle remet au commissaire à l'évaluation par écrit, avant la remise du rôle d'évaluation au cours de cette année, personnellement ou par l'intermédiaire de son représentant, un avis écrit de son désir d'être contribuable de cette section;
- b) cette année-là, elle figure à titre de contribuable de cette section sur la liste de soutien scolaire dressée ou révisée par le commissaire à l'évaluation en vertu de l'article 15 de la *Loi sur l'évaluation foncière*;

L.R.O. 1980, chap. 31

(c) in that year the person is declared to be such a supporter as a result of a final decision rendered in proceedings commenced under the *Assessment Act*.

R.S.O. 1980, c. 31

Penalty for wilful false statements in notice

(4) Any person who fraudulently gives a notice under this section or wilfully makes any false statement in it does not thereby secure an exemption from the rates and, in addition, is guilty of an offence.

As to rates imposed before French-language Board established

(5) Nothing in this section exempts any person from paying any rate for public school purposes or separate school purposes imposed before this Act comes into force.

Notice of withdrawal of support

**14.—**(1) A person ceases to be a supporter of the public sector or of the Roman Catholic sector in a year if, on or before the return of the assessment roll in that year, the person gives to the assessment commissioner notice in writing that the person desires to withdraw that support for the following year.

Supporter for one system at a time

(2) A person may be a supporter of only one school system at any given time.

Transitional, enumeration

**15.—**(1) This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

Idem

(2) A person shall be deemed to have been enumerated as a supporter of the public sector if the person,

- (a) is enumerated as owning land in the Region or occupying land in the Region as a tenant;
- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board; and
- (c) is not deemed under subsection (3) to have been enumerated as a supporter of the Roman Catholic sector.

Idem

(3) A person shall be deemed to have been enumerated as a supporter of the Roman Catholic sector if the person,

- (a) is enumerated as a Roman Catholic who chooses to be a separate school supporter; and

- c) cette année-là, elle est déclarée contribuable de cette section par suite d'une décision définitive rendue dans une instance introduite en vertu de la *Loi sur l'évaluation foncière*.

L.R.O. 1980,  
chap. 31

(4) Quiconque donne frauduleusement un avis prévu au présent article ou y fait intentionnellement une fausse déclaration n'obtient pas d'exemption de cotisations scolaires. Il est en outre coupable d'une infraction.

Peine en cas de fausses déclarations intentionnelles dans l'avis

(5) Aucune disposition du présent article n'exempte une personne du versement, aux fins des écoles publiques ou des écoles séparées, des cotisations scolaires si l'imposition est antérieure à l'entrée en vigueur de la présente loi.

Imposition avant la création du Conseil de langue française

**14** (1) Une personne cesse d'être contribuable de la section publique ou de la section catholique au cours d'une année si elle remet au commissaire à l'évaluation, au plus tard au moment de la remise du rôle d'évaluation au cours de cette année, un avis écrit de son désir de retirer son soutien pour l'année suivante.

Avis de retrait de soutien

(2) Une personne peut être contribuable d'une seule organisation scolaire à la fois.

Contribuable d'une organisation à la fois

**15** (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*.

Disposition transitoire, recensement

(2) Une personne est réputée avoir été recensée comme contribuable de la section publique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme propriétaire d'un terrain dans la Région ou comme locataire et occupant d'un terrain dans la Région;
- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme contribuable de la section catholique.

(3) Une personne est réputée avoir été recensée comme contribuable de la section catholique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme catholique qui choisit d'être contribuable des écoles séparées;

- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board.

Application  
of certain  
sections  
R.S.O. 1980,  
c. 129

**16.** Sections 123, 124 and 125 of the *Education Act*, which apply in respect of separate school support, also apply in the Region, with necessary modifications, in respect of support of the public sector and the Roman Catholic sector.

Definitions

**17.**—(1) In this section,

“organisation  
publique”

“public system” means a public board in the Region and includes the public sector;

“organisation  
catholique”

“Roman Catholic system” means a separate school board in the Region and includes the Roman Catholic sector.

If multiple  
owners or  
tenants

(2) The following rules apply in determining the school support of two or more persons who together own land in the Region or occupy land in the Region as tenants:

1. If they all choose to support the same school system, they shall be supporters of that system.
2. If they all choose to support a Roman Catholic system, they shall be supporters of a Roman Catholic system.
3. If at least one of them chooses to support a public system, they shall be supporters of a public system.
4. If they all choose to support the French-language Board they shall be supporters of the French-language Board.
5. If at least one of them chooses to support an English-language board they shall be supporters of the English-language board.

Idem

(3) A person may not choose to support a school system under subsection (2) unless he or she is entitled to support that school system.

Definitions

**18.**—(1) In this section,



- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil.

**16** Les articles 123, 124 et 125 de la *Loi sur l'éducation*, qui s'appliquent à l'égard du soutien des écoles séparées, s'appliquent également, avec les adaptations nécessaires, dans la Région à l'égard du soutien de la section publique et de la section catholique.

Champ d'application de certains articles  
L.R.O. 1980, chap. 129

**17** (1) Les définitions qui suivent s'appliquent au présent article.

Définitions

«organisation catholique» S'entend d'un conseil d'écoles séparées dans la Région, y compris la section catholique.

«Roman Catholic system»

«organisation publique» S'entend d'un conseil public dans la Région, y compris la section publique.

«public system»

(2) Les règles suivantes s'appliquent pour déterminer le soutien scolaire de deux ou plusieurs personnes qui, ensemble, sont propriétaires d'un terrain dans la Région ou locataires et occupants d'un terrain dans la Région :

Plusieurs propriétaires ou locataires

1. Si elles choisissent toutes d'être contribuables de la même organisation scolaire, elles sont contribuables de cette organisation.
2. Si elles choisissent toutes d'être contribuables d'une organisation catholique, elles sont contribuables d'une organisation catholique.
3. Si au moins l'une d'elles choisit d'être contribuable d'une organisation publique, elles sont contribuables d'une organisation publique.
4. Si elles choisissent toutes d'être contribuables du Conseil de langue française, elles sont contribuables du Conseil de langue française.
5. Si au moins l'une d'elles choisit d'être contribuable d'un conseil de langue anglaise, elles sont contribuables du conseil de langue anglaise.

(3) Une personne ne peut pas choisir d'être contribuable d'une organisation scolaire en vertu du paragraphe (2) à moins qu'elle n'ait le droit d'être contribuable de cette organisation scolaire.

Idem

**18** (1) Les définitions qui suivent s'appliquent au présent article.

Définitions

- “évaluation” “assessment”, in respect of a corporation, means the assessment of land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the business or other assessments of the corporation made under the *Assessment Act*;
- R.S.O. 1980, c. 31
- “personnes admissibles” “eligible persons” means,
- (a) persons who are Roman Catholic, in the case of the separate schools,
  - (b) French-speaking persons, in the case of the public sector, and
  - (c) French-speaking persons who are Roman Catholic, in the case of the Roman Catholic sector.
- School support, right of corporation (2) A corporation by notice to the assessment commissioner may require the whole or any part of its assessment to be entered, rated and assessed for the purposes of separate schools, the public sector, the Roman Catholic sector or any combination of them.
- Copy of notice to clerk (3) The assessment commissioner shall thereupon forward a copy of the notice to the clerk of the area municipality in which the land referred to in the notice is situate.
- Duty of assessment commissioner (4) Upon receipt of the notice, the assessment commissioner shall enter the corporation on the assessment roll to be next returned with the school support with respect to its assessment for each school system designated in the notice entered separately.
- Idem (5) The assessment commissioner shall separately enter and assess for public school purposes any assessment not designated in the notice.
- Duty of clerk (6) Upon receipt of the notice from the assessment commissioner, the clerk shall enter the corporation in the collector's roll with the school support with respect to the corporation's assessment for each school system designated in the notice entered separately.
- Idem (7) The clerk shall separately enter and show as assessed for public school purposes any assessment not designated in the notice.
- How proportion settled (8) The share or portion of a corporation's assessment rated and assessed to a school system other than a public school board shall not bear a greater proportion to the corporation's whole assessment than the amount of stock or

«évaluation» En ce qui concerne une personne morale, s'entend de l'évaluation des biens-fonds dont la personne morale est le propriétaire et l'occupant ou, si elle n'en est pas le propriétaire, dont elle est le locataire, l'occupant ou le possesseur de fait, et des évaluations commerciales ou autres de la personne morale effectuées en vertu de la *Loi sur l'évaluation foncière*.

«assessment»

L.R.O. 1980,  
chap. 31

«personnes admissibles» S'entend des personnes suivantes :

«eligible  
persons»

- a) les catholiques, dans le cas des écoles séparées;
- b) les francophones, dans le cas de la section publique;
- c) les francophones catholiques, dans le cas de la section catholique.

(2) Une personne morale peut, au moyen d'un avis envoyé au commissaire à l'évaluation, demander que la totalité ou une partie de son évaluation soit inscrite, imposée et évaluée aux fins des écoles séparées, de la section publique, de la section catholique ou d'une combinaison quelconque de celles-ci.

Droit des personnes morales en matière de soutien scolaire

(3) Le commissaire à l'évaluation envoie alors une copie de l'avis au secrétaire de la municipalité de secteur où se trouvent les biens-fonds visés dans l'avis.

Copie de l'avis au secrétaire

(4) Dès qu'il reçoit l'avis, le commissaire à l'évaluation inscrit la personne morale au prochain rôle d'évaluation qui doit être rendu, en indiquant séparément le soutien scolaire relatif à son évaluation à accorder à chaque organisation scolaire désignée dans l'avis.

Obligation du commissaire à l'évaluation

(5) Le commissaire à l'évaluation, aux fins des écoles publiques, inscrit et évalue séparément les évaluations qui ne sont pas désignées dans l'avis.

Idem

(6) Dès qu'il reçoit l'avis du commissaire à l'évaluation, le secrétaire inscrit la personne morale au rôle du percepteur, en indiquant séparément le soutien scolaire relatif à l'évaluation de la personne morale à accorder à chaque organisation scolaire désignée dans l'avis.

Obligation du secrétaire

(7) Le secrétaire inscrit et indique séparément comme étant évaluées aux fins des écoles publiques les évaluations qui ne sont pas désignées dans l'avis.

Idem

(8) La part ou la partie de l'évaluation d'une personne morale imposée et évaluée aux fins d'une organisation scolaire autre qu'un conseil d'écoles publiques ne doit pas représenter une fraction de l'évaluation totale de la personne morale qui est supérieure au rapport qui existe entre le montant des

Rapport

shares held by eligible persons bears to the whole amount of the stock or shares.

Notices:  
effect, filing  
and search  
R.S.O. 1980,  
c. 129

(9) Subsections 126 (6), (7) and (8) of the *Education Act* apply with necessary modifications to the French-language Board and the English-language boards.

Secondary  
school  
purposes

(10) This section applies in the same manner for secondary school purposes as for elementary school purposes.

## PART V

### ELECTORS FOR THE FRENCH-LANGUAGE BOARD

Electors for  
public sector  
R.S.O. 1980,  
c. 308

**19.** A French-speaking person who is qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the public sector if the person,

- (a) is a supporter of the public sector;
- (b) is the spouse of a supporter of the public sector;
- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the public sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), is enumerated as an elector for the public sector.

Electors for  
Roman  
Catholic  
sector

**20.** A French-speaking person who is a Roman Catholic and qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the Roman Catholic sector if the person,

- (a) is a supporter of the Roman Catholic sector;
- (b) is the spouse of a supporter of the Roman Catholic sector;

actions détenues par des personnes admissibles et le montant total des actions.

(9) Les paragraphes 126 (6), (7) et (8) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française et aux conseils de langue anglaise.

Avis : validité, classement et recherche  
L.R.O. 1980, chap. 129

(10) Le présent article s'applique de la même façon aux fins des écoles secondaires qu'à celles des écoles élémentaires.

Fins des écoles secondaires

## PARTIE V

### ÉLECTEURS DU CONSEIL DE LANGUE FRANÇAISE

**19** Un francophone qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section publique si, selon le cas :

Électeurs de la section publique  
L.R.O. 1980, chap. 308

- a) il est contribuable de la section publique;
- b) il est le conjoint d'un contribuable de la section publique;
- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section publique;
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il est recensé comme électeur de la section publique.

**20** Un francophone qui est catholique et qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section catholique si, selon le cas :

Électeurs de la section catholique

- a) il est contribuable de la section catholique;
- b) il est le conjoint d'un contribuable de la section catholique;

- R.S.O. 1980,  
c. 308
- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the Roman Catholic sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), is enumerated as an elector for the Roman Catholic sector.

Prohibition

**21.** No person is entitled to vote in a regular election in an area municipality both for members of a sector and for members of another sector or a board under the *Education Act*.

R.S.O. 1980,  
c. 129

Transitional,  
enumeration

**22.—(1)** This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,  
c. 31

Idem

(2) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the public sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is not deemed under subsection (3) to have been enumerated as an elector for the Roman Catholic sector.

Idem

(3) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the Roman Catholic sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is enumerated as a Roman Catholic who chooses to be a separate school elector.

- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section catholique; L.R.O. 1980, chap. 308
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il est recensé comme électeur de la section catholique.

**21** Dans une élection ordinaire qui se déroule dans une municipalité de secteur, nul n'a le droit de voter à la fois pour les membres d'une section et pour les membres d'une autre section ou d'un conseil aux termes de la *Loi sur l'éducation*. Interdiction  
L.R.O. 1980, chap. 129

**22** (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*. Disposition transitoire, recensement  
L.R.O. 1980, chap. 31

(2) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section publique si elle satisfait aux conditions suivantes : Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*; L.R.O. 1980, chap. 308
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme électeur de la section catholique.

(3) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section catholique si elle satisfait aux conditions suivantes : Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*;
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle est recensée comme catholique qui choisit d'être électeur des écoles séparées.

## PART VI

## DUTIES AND POWERS OF FRENCH-LANGUAGE BOARD

Duties and powers under R.S.O. 1980, c. 129

**23.**—(1) Section 149, except paragraphs 1 and 2, and section 150 of the *Education Act* apply with necessary modifications to the French-language Board.

Application of sections in Part VI of R.S.O. 1980, c. 129

(2) Sections 151 (scholarships), 152 and 153 (vocational courses), 154 to 158 (benefits), 159 to 165a (agreements), 166 (transportation), 167 (allowances), 169 to 172 (property) and 173 (out-of-classroom programs) of the *Education Act* apply with necessary modifications to the French-language Board.

Disposal of buildings

(3) A sector shall not sell, lease or otherwise dispose of a building or part thereof other than to the other sector unless, in addition to any other approval that may be required, the sector has obtained the approval of the Minister.

Appointment of treasurer

**24.**—(1) There shall be one treasurer for the French-language Board.

Take proper security

(2) The full board shall take proper security from the treasurer.

Powers and duties of treasurer R.S.O. 1980, c. 129

(3) The provisions of the *Education Act* concerning the powers and duties of a treasurer of a board apply with necessary modifications to the treasurer in respect of the full board, the Roman Catholic sector and the public sector as if they all were boards.

Secretary for full board

**25.**—(1) The full board shall appoint a secretary for the matters within its jurisdiction.

Secretaries for sectors

(2) The Roman Catholic sector shall appoint a secretary for matters within its jurisdiction and the public sector shall appoint a secretary for matters within its jurisdiction.

Powers and duties of secretary

(3) The provisions of the *Education Act* concerning the powers and duties of a secretary of a board apply with necessary modifications to the secretary of the full board and the secretaries of each sector as if the full board and each of the sectors were boards.

Application of certain sections of R.S.O. 1980, c. 129

(4) Sections 183 (access to meetings and records), 184 (board meetings), 186 (arbitrators), 187 to 193 (offences and penalties) and 194 (validity of elections) of the *Education Act* apply with necessary modifications to the French-language Board.



## PARTIE VI

FONCTIONS ET POUVOIRS DU CONSEIL DE LANGUE  
FRANÇAISE

**23** (1) L'article 149, à l'exclusion des dispositions 1 et 2, et l'article 150 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Fonctions et pouvoirs en vertu du chap. 129 des L.R.O. de 1980

(2) Les articles 151 (bourses d'études), 152 et 153 (cours de formation professionnelle), 154 à 158 (avantages), 159 à 165a (ententes), 166 (transport), 167 (allocations), 169 à 172 (biens) et 173 (programmes périscolaires) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Champ d'application de certains articles de la partie VI du chap. 129 des L.R.O. de 1980

(3) Une section ne doit pas disposer, notamment par vente ou location, d'un bâtiment ou d'une partie d'un bâtiment si ce n'est en faveur de l'autre section, à moins que la section ait obtenu, en plus de toute autre approbation requise, l'approbation du ministre.

Disposition des bâtiments

**24** (1) Le Conseil de langue française a un seul trésorier.

Nomination d'un trésorier

(2) Le conseil plénier obtient une sûreté suffisante du trésorier.

Obtention d'une sûreté suffisante

(3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du trésorier d'un conseil s'appliquent, avec les adaptations nécessaires, au trésorier relativement au conseil plénier, à la section catholique et à la section publique comme s'ils étaient tous des conseils.

Pouvoirs et fonctions du trésorier  
L.R.O. 1980, chap. 129

**25** (1) Le conseil plénier nomme un secrétaire pour les questions qui relèvent de sa compétence.

Secrétaire du conseil plénier

(2) La section catholique nomme un secrétaire pour les questions qui relèvent de sa compétence et la section publique nomme un secrétaire pour les questions qui relèvent de la sienne.

Secrétaires des sections

(3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du secrétaire d'un conseil s'appliquent, avec les adaptations nécessaires, au secrétaire du conseil plénier et au secrétaire de chacune des sections comme si le conseil plénier et chacune des sections étaient des conseils.

Pouvoirs et fonctions du secrétaire

(4) Les articles 183 (réunions publiques et accès aux archives), 184 (réunions du conseil), 186 (arbitres), 187 à 193 (infractions et amendes) et 194 (validité des élections) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Champ d'application de certains articles du chap. 129 des L.R.O. de 1980

Declaration  
and oath  
R.S.O. 1980,  
c. 129

(5) Section 185 of the *Education Act* applies with necessary modifications to the public sector and the Roman Catholic sector as if they both were boards.

Roman  
Catholic  
sector,  
secondary  
education

**26. Subject to this Act**, the Roman Catholic sector has all the powers and shall perform all the duties that the *Education Act* confers or imposes on a secondary school board.

English as a  
subject of  
instruction

**27.—(1)** English shall be a subject of instruction in grades 5, 6, 7 and 8 in every school or class operated by the French-language Board.

Idem

(2) English may be a subject of instruction in any grade other than grades 5, 6, 7 and 8 in a school or class operated by the French-language Board.

## PART VII

### BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS, VACANCIES

Employees  
disqualified

**28.** An employee of the French-language Board is not eligible to be elected a member of the public sector or the Roman Catholic sector or entitled to sit or vote on either of them.

Qualifications  
of members  
of sectors

**29.—(1)** A person is qualified to be elected as a member of the Roman Catholic sector or of the public sector if the person is an elector for that sector and resides in the Region.

Idem

(2) A person who is an elector for a sector in respect of an area for which one or more members of the sector are to be elected is qualified to be elected as a member of that sector for any area in the Region if the person is otherwise qualified under this section.

Members  
eligible for  
re-election

(3) A member of a sector is eligible for re-election if otherwise qualified.

Dis-  
qualification  
R.S.O. 1980,  
c. 129

(4) Subsection 196 (3) of the *Education Act* applies with necessary modifications to the French-language Board.

Qualification  
to act as  
member

(5) A person is qualified to act as a member of a sector during the term for which he or she was elected so long as the person continues to hold the qualifications required for election as a member of the sector and does not become disqualified.

(5) L'article 185 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Déclaration et serment  
L.R.O. 1980, chap. 129

**26** Sous réserve de la présente loi, la section catholique possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil d'écoles secondaires.

Section catholique, enseignement secondaire

**27** (1) Dans toutes les écoles ou les classes qui relèvent du Conseil de langue française, l'anglais est une matière d'enseignement en 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années.

Anglais en tant que matière d'enseignement

(2) Dans une école ou une classe qui relève du Conseil de langue française, l'anglais peut être une matière d'enseignement dans les années autres que les 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années.

Idem

## PARTIE VII

### MEMBRES DU CONSEIL—ÉLIGIBILITÉ, DÉMISSIONS ET VACANCES

**28** Quiconque est employé par le Conseil de langue française ne peut pas être membre de la section publique ou de la section catholique. Il ne peut pas siéger au sein de l'une ou l'autre des sections, ni y voter.

Employés inéligibles

**29** (1) Une personne est éligible comme membre de la section catholique ou de la section publique si elle est électeur de cette section et qu'elle réside dans la Région.

Conditions d'éligibilité des membres des sections

(2) Quiconque est électeur d'une section en ce qui concerne un secteur pour lequel un ou plusieurs membres d'une section doivent être élus est éligible comme membre de cette section dans un secteur quelconque de la Région s'il satisfait aux autres conditions prévues par le présent article.

Idem

(3) Un membre d'une section est rééligible s'il satisfait aux autres conditions d'éligibilité.

Membres rééligibles

(4) Le paragraphe 196 (3) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Inéligibilité  
L.R.O. 1980, chap. 129

(5) Une personne peut agir à titre de membre d'une section pour la durée de son mandat tant qu'elle satisfait aux conditions d'éligibilité à titre de membre de la section et qu'elle n'est pas frappée d'incapacité.

Conditions d'éligibilité pour agir à titre de membre

Idem (6) A person is qualified to act as a member of the full board if the person is qualified to act as a member of the sector to which the person is elected.

Person not to be candidate for more than one seat (7) Subsection 196 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Members remaining in office, resignations **30.**—(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, at the first regular meeting of the sector after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the sector.

Idem (2) If the office of a member of a sector becomes vacant and the remaining members do not constitute a majority of the members elected to the sector, a new election shall be held to fill the vacancy or vacancies.

Notice (3) The secretary of the sector shall send a notice to the clerk of the relevant area municipality if an election is required under subsection (2).

Term of office (4) A member of a sector appointed or elected under this section shall hold office for the remainder of the term of office of the membership of the sector.

If election held to fill vacancy **31.**—(1) Despite subsection 30 (1), if a vacancy occurs in a sector on or before the 31st day of March of an election year, the sector may, by resolution, require that an election be held to fill the vacancy.

Idem (2) If a sector requires an election to be held, the secretary of the sector shall forthwith send to the clerk of the appropriate area municipality a certified copy of the resolution.

Idem R.S.O. 1980, c. 308 (3) The provisions of the *Municipal Elections Act* that pertain to an election to fill a vacancy apply to an election under this section.

Vacancy near time of regular election R.S.O. 1980, c. 129 **32.** Section 202 of the *Education Act* applies with necessary modifications to the French-language Board.

Seat vacated by conviction **33.** Section 206 of the *Education Act* applies with necessary modifications to the French-language Board.

(6) Une personne peut agir à titre de membre du conseil plénier si elle peut agir à titre de membre de la section dans laquelle elle est élue. Idem

(7) Le paragraphe 196 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Interdiction de se porter candidat à plusieurs postes

**30** (1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, lors de la première réunion ordinaire de la section tenue après que le poste est devenu vacant, une personne qui est éligible comme membre de la section. Membres qui demeurent en fonction, démissions

(2) Si le poste d'un membre d'une section devient vacant et que le reste des membres ne constituent pas la majorité des membres élus, une nouvelle élection a lieu pour combler le ou les postes vacants. Idem

(3) Le secrétaire de la section envoie un avis au secrétaire de la municipalité de secteur intéressée si une élection est nécessaire aux termes du paragraphe (2). Avis

(4) Le membre d'une section nommé ou élu en vertu du présent article demeure en fonction jusqu'à l'expiration du mandat des membres de la section. Mandat

**31** (1) Malgré le paragraphe 30 (1), si une vacance survient au sein d'une section au plus tard le 31 mars d'une année d'élection, la section peut, par voie de résolution, exiger la tenue d'une élection pour combler le poste vacant. Élection en vue de combler un poste vacant

(2) Si une section exige la tenue d'une élection, le secrétaire de la section envoie sans délai au secrétaire de la municipalité de secteur intéressée une copie certifiée conforme de la résolution. Idem

(3) Les dispositions de la *Loi sur les élections municipales* qui concernent les élections tenues pour combler les postes vacants s'appliquent à une élection tenue en vertu du présent article. Idem  
L.R.O. 1980,  
chap. 308

**32** L'article 202 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Vacance peu avant ou peu après une élection ordinaire  
L.R.O. 1980,  
chap. 129

**33** L'article 206 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Vacance d'un poste à la suite d'une condamnation

Elections

**34.** The election of members of a sector shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

## PART VIII

## COMPOSITION OF FRENCH-LANGUAGE BOARD

Application  
of trustee  
representation  
provisions  
R.S.O. 1980,  
c. 129

**35.**—(1) Subject to subsections (2), (3) and (4), Part VII-A of the *Education Act* applies with necessary modifications to the French-language Board as if,

- (a) the French-language Board were a divisional board that is required to establish an English-language section and that is exercising jurisdiction in an area where there is no coterminous Roman Catholic separate school board that is a Roman Catholic school board; and
- (b) a supporter or elector of the public sector were a public school supporter or public school elector, as the case may be, and a supporter or elector of the Roman Catholic sector were a separate school supporter or separate school elector, as the case may be.

Interpretation

(2) For purposes of applying rule 6 of subsection 206a (6), subsections 206a (13), (14), (17) and (21) and section 206d of the *Education Act*, a reference in that rule, those subsections and that section to a board shall be deemed to be a reference to a sector.

Idem

(3) For purposes of applying rule 11 of subsection 206a (8) of the *Education Act*, a reference in that rule to the number three shall be deemed to be a reference to the number eight and for the purposes of applying rule 13 of subsection 206a (8) of the *Education Act*, a reference in that rule to the number one shall be deemed to be a reference to the number eight.

Idem

R.S.O. 1980,  
c. 129

(4) For purposes of applying the provisions of the regulation made under clauses 10 (10) (a) and (b) of the *Education Act*, a reference in those provisions to the director of education of a board and to the secretary of the board shall be deemed to be a reference to the director of education and the secretary of the public sector in respect of a determination or distribution for the public sector and to the director of education and the secretary of the Roman Catholic sector in respect of a determination or distribution for the Roman Catholic sector.

**34** L'élection des membres d'une section est tenue par les mêmes fonctionnaires et de la même façon que les élections des membres du conseil d'une municipalité. Elections

## PARTIE VIII

### COMPOSITION DU CONSEIL DE LANGUE FRANÇAISE

**35** (1) Sous réserve des paragraphes (2), (3) et (4), la partie VII-A de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si :

Application des dispositions relatives à la représentation des conseillers scolaires  
L.R.O. 1980, chap. 129

- a) d'une part, le Conseil de langue française était un conseil de division scolaire qui est tenu d'établir une section de langue anglaise et qui exerce sa compétence dans un secteur où il n'y a pas de conseil d'écoles séparées catholiques coïncident qui soit un conseil d'écoles catholiques;
- b) d'autre part, un contribuable ou un électeur de la section publique était un contribuable des écoles publiques ou un électeur des écoles publiques, selon le cas, et un contribuable ou un électeur de la section catholique était un contribuable des écoles séparées ou un électeur des écoles séparées, selon le cas.

(2) Pour l'application de la règle 6 du paragraphe 206a (6), des paragraphes 206a (13), (14), (17) et (21), et de l'article 206d de la *Loi sur l'éducation*, une mention d'un conseil, dans cette règle, ces paragraphes et cet article, est réputée une mention d'un secteur. Interprétation

(3) Pour l'application de la règle 11 du paragraphe 206a (8) de la *Loi sur l'éducation*, une mention du nombre trois, dans cette règle, est réputée une mention du nombre huit, et pour l'application de la règle 13 du paragraphe 206a (8) de la *Loi sur l'éducation*, une mention du nombre un, dans cette règle, est réputée une mention du nombre huit. Idem

(4) Pour l'application des dispositions du règlement pris en application des alinéas 10 (10) a) et b) de la *Loi sur l'éducation*, une mention du directeur de l'éducation d'un conseil et du secrétaire du conseil, dans ces dispositions, est réputée une mention du directeur de l'éducation et du secrétaire de la section publique à l'égard d'une décision ou d'une répartition pour la section publique, et une mention du directeur de l'éducation et du secrétaire de la section catholique à l'égard d'une décision ou d'une répartition pour la section catholique. Idem  
L.R.O. 1980, chap. 129

**36** (1) Dans le présent article, «Comité de planification» s'entend du Comité de planification de l'enseignement en Définition «Planning Committee»

Definition  
"Comité de  
planification"

**36.**—(1) In this section, "Planning Committee" means the Ottawa-Carleton French-Language Education Planning Committee established by the Minister and constituted by Order in Council 229/88.

Transitional

(2) For the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, if the number of members representing a sector for an area municipality is two or more, the Minister may by order divide the municipality into two or more electoral areas and the electoral areas shall be deemed to be electoral areas established prior to the 2nd day of February, 1988, by the council of the municipality at the request of the sector.

Idem

(3) The Minister, on the recommendation of the Planning Committee, may, by order, increase or decrease the number of members determined to be elected for a sector under rules 1 to 10 of subsection 206a (8) of the *Education Act* by one or two members for the purposes of the regular election to be held in 1988 under the *Municipal Elections Act*.

R.S.O. 1980,  
c. 129

R.S.O. 1980,  
c. 308

Idem

(4) For purposes of the regular election to be held in 1988 under the *Municipal Elections Act*, the Minister may, by order, exercise the same power as a sector could have exercised under subsections 206a (13) and (14) of the *Education Act* if the sector had been in existence on the day this Act comes into force, and an order of the Minister under this section shall be deemed to be a resolution of the sector to which it applies passed under subsection 206a (13) or (14) of the *Education Act*, as the case may be.

Idem

(5) For the regular election to be held in 1988, if a calculation or a distribution or both are not made or an application is made under section 206c of the *Education Act* and the judge does not deal with it within the time required by subsection 206c (3) of the *Education Act*, the Minister shall make the calculation or distribution or both, as the case may be.

R.S.O. 1980,  
c. 129

Idem

(6) Despite subsection 35 (4), for purposes of the regular election to be held in 1988 and the application of the provisions of the regulation made under clauses 10 (10) (a) and (b) of the *Education Act*, a reference in those provisions to the director of education of a board and to the secretary of the board shall be deemed to be a reference to the chairmen of the French-language education councils of The Ottawa Board of Education and The Carleton Board of Education in respect of a determination or distribution for the public sector and to the chairmen of the French-language education councils of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board in respect of a determination or distribution for the Roman Catholic sector.



langue française d'Ottawa-Carleton créé par le ministre et constitué par le décret 229/88.

(2) Aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour combler des postes vacants avant le 1<sup>er</sup> décembre 1991, si le nombre de membres représentant une section pour une municipalité de secteur est de deux ou plus, le ministre peut, par voie d'arrêté, diviser la municipalité en deux secteurs électoraux ou plus. Les secteurs électoraux sont réputés des secteurs électoraux établis avant le 2 février 1988 par le conseil de la municipalité à la demande de la section.

Disposition  
transitoire

(3) À la recommandation du Comité de planification, le ministre peut, par voie d'arrêté, augmenter ou diminuer d'un ou de deux le nombre de membres devant être élus pour une section aux termes des règles 1 à 10 du paragraphe 206a (8) de la *Loi sur l'éducation* aux fins de l'élection ordinaire qui doit se tenir en 1988 aux termes de la *Loi sur les élections municipales*.

Idem

L.R.O. 1980,  
chap. 129  
L.R.O. 1980,  
chap. 308

(4) Aux fins de l'élection ordinaire qui doit se tenir en 1988 aux termes de la *Loi sur les élections municipales*, le ministre peut, par voie d'arrêté, exercer le même pouvoir qu'aurait pu exercer une section en vertu des paragraphes 206a (13) et (14) de la *Loi sur l'éducation* si cette section avait existé le jour de l'entrée en vigueur de la présente loi. Un arrêté que prend le ministre en vertu du présent article est réputé une résolution de la section à laquelle il s'applique, adoptée aux termes du paragraphe 206a (13) ou (14) de la *Loi sur l'éducation*, selon le cas.

Idem

(5) Aux fins de l'élection ordinaire qui doit se tenir en 1988, si un calcul ou une répartition, ou les deux, ne sont pas faits, ou qu'une requête est présentée, en vertu de l'article 206c de la *Loi sur l'éducation*, à un juge qui ne donne pas suite à celle-ci dans le délai imparti au paragraphe 206c (3) de la *Loi sur l'éducation*, le ministre fait le calcul ou la répartition, ou les deux, selon le cas.

Idem

L.R.O. 1980,  
chap. 129

(6) Malgré le paragraphe 35 (4), aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour l'application des dispositions du règlement pris en application des alinéas 10 (10) a) et b) de la *Loi sur l'éducation*, une mention du directeur de l'éducation d'un conseil et du secrétaire du conseil, dans ces dispositions, est réputée une mention des présidents des conseils de l'enseignement en langue française du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton à l'égard d'une décision ou d'une répartition pour la section publique, et une mention des présidents des conseils de l'enseignement en langue française du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton à l'égard d'une décision ou d'une répartition pour la section catholique.

Idem

Transition  
1988, c. 27

(7) Subsection 41 (1) of the *Education Statute Law Amendment Act, 1988* applies with necessary modifications in respect of the French-language Board.

## PART IX

### FINANCE

Appointment  
and dismissal  
of auditor

**37.**—(1) There shall be one auditor for the French-language Board and the auditor shall hold office during good behaviour and be removable for cause.

Qualifications  
R.S.O. 1980,  
c. 303

(2) The auditor shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

Powers and  
duties of  
auditor  
R.S.O. 1980,  
c. 129

(3) Subsections 207 (2) to (6) of the *Education Act* apply with necessary modifications to the auditor.

Filing of  
financial  
statements

(4) The treasurer in every year shall prepare the financial statements of the public sector and the Roman Catholic sector and, upon receiving the auditor's report on them, shall forthwith submit two copies of the financial statements together with a copy of the auditor's report to the Ministry.

Idem

(5) A financial statement for a sector shall include for each classification of expenditure the expenses of the full board allocated to the sector.

Publication  
of financial  
statements

(6) The treasurer of the French-language Board in every year shall, within one month after receiving the auditor's report on the financial statements of the sectors for the preceding year, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements for that ratepayer's sector for the preceding year in such form as the Minister may require, together with a copy of the report of the auditor.

Idem

(7) If in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy of the report under subsection (6), cause to be included in such notice the copy and the report.

Debentures

**38.**—(1) Section 208 of the *Education Act* applies with necessary modifications to the public sector as if it were a divisional board.

(7) Le paragraphe 41 (1) de la *Loi de 1988 modifiant des lois concernant l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Disposition transitoire 1988, chap. 27

## PARTIE IX

### FINANCES

**37** (1) Le Conseil de langue française a un vérificateur qui occupe sa charge à titre inamovible, mais qui peut faire l'objet d'une destitution motivée. Nomination et destitution du vérificateur

(2) Le vérificateur est une personne qui détient un permis pour exercer la charge de vérificateur municipal en vertu de la *Loi sur les affaires municipales*. Qualités requises  
L.R.O. 1980, chap. 303

(3) Les paragraphes 207 (2) à (6) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au vérificateur. Pouvoirs et fonctions du vérificateur  
L.R.O. 1980, chap. 129

(4) Chaque année, le trésorier prépare les états financiers de la section publique et de la section catholique. À la réception du rapport du vérificateur à ce sujet, il remet sans délai au ministère deux copies des états financiers ainsi qu'une copie du rapport du vérificateur. Dépôt des états financiers

(5) Les états financiers d'une section comprennent, pour chaque catégorie de dépenses, les frais du conseil plénier affectés à la section. Idem

(6) Chaque année, dans un délai d'un mois à compter de la réception du rapport du vérificateur sur les états financiers des sections pour l'année précédente, le trésorier du Conseil de langue française fait publier, envoyer par la poste ou remettre à chaque contribuable une copie des états financiers de sa section pour l'année précédente selon la forme que peut exiger le ministre, ainsi qu'une copie du rapport du vérificateur. Publication des états financiers

(7) Si, au cours d'une année, un avis d'impôt est envoyé à chaque contribuable avant le 30 juin, le trésorier peut, au lieu de publier, d'envoyer par la poste ou de remettre une copie du rapport comme le prévoit le paragraphe (6), faire annexer à cet avis la copie et le rapport. Idem

**38** (1) L'article 208 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire. Débentures

(2) L'article 134 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section catholique. Droit d'emprunt

Borrowing  
powers

(2) Section 134 of the *Education Act* applies with necessary modifications to the Roman Catholic sector.

Estimates,  
full board

**39.**—(1) The full board in each year shall prepare and adopt estimates of all sums required in its area of jurisdiction during the year for elementary school purposes and for secondary school purposes respectively, and such estimates,

- (a) shall set forth its estimated expenditures including debt charges payable on its behalf; and
- (b) may provide for expenditures for permanent improvements of premises occupied by it.

Full board's  
estimates  
allocated to  
sectors

(2) The full board shall allocate its estimates to the public sector and to the Roman Catholic sector in the ratio that the average daily enrolment of pupils in the schools of the relevant sector is to the average daily enrolment of pupils in all of the schools of the French-language Board.

Idem

(3) Despite subsection (2), the full board shall allocate its estimates in respect of maintaining a sector's buildings and premises and furniture and equipment to that sector.

Idem

(4) The full board shall allocate its estimates to the sectors separately for elementary and secondary school purposes.

Full board's  
estimates  
forwarded to  
sectors

(5) The full board shall submit its estimates, together with the relevant allocations under subsections (2) and (3), to the sectors on or before the 15th day of February in each year.

Estimates,  
sectors  
R.S.O. 1980,  
c. 129

(6) Subsection 209 (1) of the *Education Act* applies with necessary modifications to the public sector in its area of jurisdiction as if it were a divisional board.

Estimates,  
Roman  
Catholic  
sector

(7) Sections 127 and 136k of the *Education Act* apply with necessary modifications to the Roman Catholic sector.

Levying of  
rates

(8) Sections 128 and 130 to 133 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector for elementary and secondary school purposes as if they were both separate school boards.

**39** (1) Chaque année, le conseil plénier prépare et adopte les prévisions des sommes nécessaires dans son domaine de compétence au cours de l'année pour les besoins des écoles élémentaires et des écoles secondaires respectivement. Ces prévisions :

Prévisions,  
conseil  
plénier

- a) précisent les dépenses prévues pour le conseil plénier, y compris le service de la dette pour son compte;
- b) peuvent couvrir les dépenses en vue des améliorations permanentes des lieux que le conseil plénier occupe.

(2) Le conseil plénier affecte ses prévisions à la section publique et à la section catholique dans le rapport qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Prévisions du  
conseil plénier  
affectées aux  
sections

(3) Malgré le paragraphe (2), le conseil plénier affecte ses prévisions à l'égard de l'entretien des bâtiments et lieux, de l'ameublement et de l'équipement d'une section à cette section.

Idem

(4) Le conseil plénier affecte ses prévisions aux sections séparément aux fins des écoles élémentaires et secondaires.

Idem

(5) Au plus tard le 15 février de chaque année, le conseil plénier présente aux sections ses prévisions, ainsi que les affectations appropriées visées aux paragraphes (2) et (3).

Prévisions du  
conseil plénier  
présentées aux  
sections

(6) Le paragraphe 209 (1) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique dans son domaine de compétence comme s'il s'agissait d'un conseil de division scolaire.

Prévisions,  
sections  
L.R.O. 1980  
chap. 129

(7) Les articles 127 et 136k de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section catholique.



Prévisions,  
section  
catholique



(8) Les articles 128 et 130 à 133 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique aux fins des écoles élémentaires et secondaires, comme si les deux sections étaient des conseils d'écoles séparées.

Prélèvements  
des impôts

(9) Pour l'application de l'article 130 de la *Loi sur l'éducation*, les sections utilisent les facteurs fixés par le ministre en 1989.

Idem

- Idem (9) For the purposes of section 130 of the *Education Act* the sectors shall use the factors determined by the Minister in 1989.
- Idem (10) A determination of the Minister under subsection (9) is not a regulation within the meaning of the *Regulations Act*. 
- R.S.O. 1980, c. 446
- Estimates of full board included (11) The estimates of a sector shall include the proportion of the estimates of the full board as allocated to it.
- Statement of amounts to be raised (12) The treasurer on behalf of the public sector shall submit to the council of each area municipality on or before the 1st day of March in each year,
- (a) a statement indicating the amount of its estimates for elementary school purposes and for secondary school purposes to be raised by each council; and
  - (b) a requisition of the amount of the estimates for elementary school purposes and for secondary school purposes required to be raised by the council.
- Provisions concerning estimates (13) Subsections 209 (2) to (9) of the *Education Act* apply with necessary modifications to the public sector as if it were a divisional board.
- R.S.O. 1980, c. 129
- Money not spent because of strike **40.**—(1) Sections 210 and 212 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector.
- Idem (2) A reserve of a sector under subsection 210 (2) of the *Education Act* shall include the proportion of any amount allocated to it in relation to the unpaid salaries and wages of employees of the full board.
- Rates, payments to boards **41.**—(1) Section 215 of the *Education Act* applies with necessary modifications to the French-language Board as if the public sector and the Roman Catholic sector were divisional boards and the Region were a school division. 
- First payment (2) The amounts to be used for the calculation under paragraph 1 of subsection 215 (2) of the *Education Act* on the 31st day of March, 1989 shall be determined by the Minister.
- Application (3) A determination of the Minister under subsection (2) is not a regulation within the meaning of the *Regulations Act*.
- Tax notices, accounting for money **42.**—(1) Section 216 of the *Education Act* applies with necessary modifications in respect of the French-language Board.

- (10) La décision du ministre visée au paragraphe (9) n'est pas un règlement au sens de la *Loi sur les règlements*.  Idem  
L.R.O. 1980, chap. 446
- (11) Les prévisions d'une section indiquent la proportion des prévisions du conseil plénier qui lui ont été affectées. Indication des prévisions du conseil plénier
- (12) Au plus tard le 1<sup>er</sup> mars de chaque année, le trésorier, au nom de la section publique, présente au conseil de chaque municipalité de secteur : État des montants devant être recueillis
- a) un état indiquant le montant de ses prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que chaque conseil doit recueillir;
- b) une demande du montant des prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que le conseil doit recueillir.
- (13) Les paragraphes 209 (2) à (9) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire. Dispositions relatives aux prévisions  
L.R.O. 1980, chap. 129
- 40** (1) Les articles 210 et 212 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique. Fonds non affectés en raison de grève
- (2) La réserve d'une section visée au paragraphe 210 (2) de la *Loi sur l'éducation* comprend la proportion des sommes qui lui sont affectées relativement aux salaires et à la rémunération impayés des employés du conseil plénier. Idem
- 41** (1) L'article 215 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si la section publique et la section catholique étaient des conseils de division scolaire et que la Région était une division scolaire.  Versement des impôts aux conseils
- (2) Le ministre décide des montants à utiliser pour le calcul effectué en vertu de la disposition 1 du paragraphe 215 (2) de la *Loi sur l'éducation* le 31 mars 1989. Premier versement
- (3) La décision du ministre visée au paragraphe (2) ne constitue pas un règlement au sens de la *Loi sur les règlements*. Champ d'application
- 42** (1) L'article 216 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Avis d'impôt, reddition de comptes

Current borrowing, when fees payable, reduction of requisition

(2) Sections 217, 218 and 219 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector as if both of them were boards.

Payment of expenses of full board

(3) A sector shall make funds available to provide for payment of the proportion of the expenses of the full board allocated to it.

Borrowing by one sector from another

(4) If money is borrowed from public sector funds for Roman Catholic sector purposes or from Roman Catholic sector funds for public sector purposes, the borrowing sector shall pay interest to the fund from which the money is borrowed at a rate not less than that being earned by the fund at the date of borrowing.

Data furnished, determination of rates  
R.S.O. 1980, c. 129

**43.**—(1) Sections 220 and 221 and subsections 222 (1) and (2) of the *Education Act* apply with necessary modifications in respect of the public sector and the Roman Catholic sector as if both of them were boards.

Idem

(2) Each sector shall determine the rates to be levied for its purposes. ▲

Assessments for school purposes

(3) The clerk of each area municipality shall prepare the following particulars:

1. The commercial assessment for the purposes of the public sector.
2. The residential and farm assessment for the purposes of the public sector.
3. The commercial assessment for the purposes of the Roman Catholic sector.
4. The residential and farm assessment for the purposes of the Roman Catholic sector.

Levying of school rates

**44.** The council of every area municipality shall levy or cause to be levied on the whole of the assessment for real property and business assessment for the purposes of the public sector and the Roman Catholic sector, according to the last revised assessment roll, the rates determined for each sector.

Share of licence fees for trailers  
R.S.O. 1980, c. 129

**45.** Section 227 of the *Education Act*, which applies in respect of separate school support, also applies in the Region with necessary modifications in respect of support of the public sector and the Roman Catholic sector.



(2) Les articles 217, 218 et 219 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Emprunt courant, droits payables, réduction des demandes

(3) La section prévoit des fonds pour le paiement de la partie des dépenses du conseil plénier qui lui sont affectées.

Paiement des dépenses du conseil plénier

(4) S'il y a emprunt de sommes provenant d'un fonds de la section publique aux fins de la section catholique ou de sommes provenant d'un fonds de la section catholique aux fins de la section publique, la section qui emprunte paie des intérêts au fonds d'où proviennent les sommes empruntées à un taux qui n'est pas inférieur à celui dont bénéficie le fonds à la date de l'emprunt.

Emprunt à une section par l'autre

**43** (1) Les articles 220 et 221 et les paragraphes 222 (1) et (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard de la section publique et de la section catholique comme si elles étaient toutes les deux des conseils.

Renseignements fournis, calcul des impôts  
L.R.O. 1980, chap. 129

(2) Chaque section fixe les impôts qui sont prélevés à ses fins.

Idem

(3) Le secrétaire de chaque municipalité de secteur prépare ce qui suit :

Évaluations aux fins scolaires

1. L'évaluation des industries et des commerces aux fins de la section publique.
2. L'évaluation résidentielle et agricole aux fins de la section publique.
3. L'évaluation des industries et des commerces aux fins de la section catholique.
4. L'évaluation résidentielle et agricole aux fins de la section catholique.

**44** Le conseil de chaque municipalité de secteur prélève ou fait prélever sur la totalité de l'évaluation foncière et de l'évaluation commerciale aux fins de la section publique et de la section catholique, d'après le dernier rôle d'évaluation révisé, les impôts établis pour chaque section.

Prélèvement des impôts

**45** L'article 227 de la *Loi sur l'éducation*, qui s'applique à l'égard du soutien des écoles séparées, s'applique également, avec les adaptations nécessaires, à l'égard du soutien de la section publique et de la section catholique.

Partie des droits sur les roulottes  
L.R.O. 1980, chap. 129

Share of  
legislative  
grants  
R.S.O. 1980,  
c. 129

**46.**—(1) On and after the 1st day of January, 1989, the public sector and the Roman Catholic sector shall each share in the legislative grants under the *Education Act* in the same way as a public board.

Share of  
municipal  
grants

(2) On and after the 1st day of January, 1989, subsection 135 (2) of the *Education Act* applies with necessary modifications in respect of the schools governed by the public sector and the schools governed by the Roman Catholic sector in the same way that it applies to separate schools.

Special  
temporary  
grants

(3) The Lieutenant Governor in Council may provide for the payment to the public sector, to the Roman Catholic sector or to both of such special temporary grants as the Lieutenant Governor in Council considers appropriate.

Idem

(4) A grant under subsection (3) shall be paid out of money appropriated by the Legislature for educational purposes.

## PART X

### TEACHERS AND SUPERVISORY OFFICERS

Teachers

**47.** Part IX of the *Education Act* applies with necessary modifications to the French-language Board.

Qualifications  
of  
supervisory  
officers

**48.** Section 249 of the *Education Act* applies with necessary modifications to the French-language Board.

Director of  
education for  
public sector

**49.**—(1) The public sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Director of  
education for  
Roman  
Catholic  
sector

(2) The Roman Catholic sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Duties of  
directors of  
education

(3) The director of education for a sector shall be responsible to that sector for the development, implementation, operation and supervision of education programs in the French-language instructional units operated by that sector.

Chief  
executive  
officer of  
sectors

(4) Section 253 of the *Education Act* applies with necessary modifications to the directors of education of the sectors.

**46** (1) À compter du 1<sup>er</sup> janvier 1989, la section publique et la section catholique reçoivent chacune une part des subventions générales accordées en vertu de la *Loi sur l'éducation* de la même façon qu'un conseil public.

Part des subventions générales  
L.R.O. 1980, chap. 129

(2) À compter du 1<sup>er</sup> janvier 1989, le paragraphe 135 (2) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard des écoles gérées par la section publique et des écoles gérées par la section catholique de la même façon qu'il s'applique aux écoles séparées.

Part des subventions municipales

(3) Le lieutenant-gouverneur en conseil peut prévoir le paiement à la section publique ou à la section catholique, ou aux deux, des subventions spéciales et temporaires qu'il juge opportunes.

Subventions spéciales et temporaires

(4) Les subventions accordées en vertu du paragraphe (3) sont prélevées sur les sommes affectées par la Législature aux fins de l'éducation.

Idem

## PARTIE X

### ENSEIGNANTS ET AGENTS DE SUPERVISION

**47** La partie IX de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Enseignants

**48** L'article 249 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Qualification requise des agents de supervision

**49** (1) La section publique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur de l'éducation pour la section publique

(2) La section catholique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur de l'éducation pour la section catholique

(3) Le directeur de l'éducation d'une section est responsable, devant cette section, de l'élaboration, de la mise en oeuvre, de l'application et de la supervision des programmes d'éducation dans les modules scolaires de langue française qui relèvent de cette section.

Fonctions des directeurs de l'éducation

(4) L'article 253 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, aux directeurs de l'éducation des sections.

Chef de service administratif des sections

Executive  
director of  
full board

**50.**—(1) The full board shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its executive director.

Idem

(2) The executive director is the chief executive officer of the full board.

Application  
of certain  
sections of  
R.S.O. 1980,  
c. 129

(3) Subsections 253 (2) and (3) of the *Education Act* apply with necessary modifications to the executive director of the full board.

Appointment  
of  
supervisory  
officers

**51.**—(1) Sections 254 and 255 of the *Education Act* apply with necessary modifications to the French-language Board.

Duties of  
supervisory  
officers

(2) Section 256 of the *Education Act* applies with necessary modifications to the French-language Board.

Sharing  
supervisory  
officer

(3) Despite subsection 256 (4) of the *Education Act*, the Roman Catholic sector, the public sector and the full board or any two of them may enter into an agreement whereby one of them purchases the services of a supervisory officer of another of them.

Suspension  
or dismissal  
of  
supervisory  
officer

(4) Section 257 of the *Education Act* applies with necessary modifications to the French-language Board.

Abolition of  
position

(5) The French-language Board shall not abolish the position of a supervisory officer without the approval of the Minister.

## PART XI

### RESOLUTION OF DISPUTES

Notice  
requiring  
resolution

**52.**—(1) If this Act provides that the exercise of a power, duty or right requires approval by both sectors, and the sectors do not agree on how to exercise it, either sector may by notice in writing to the other sector and to the Commission require that the matter be resolved under this Part.

Idem

(2) If this Act provides that a matter is to be resolved by agreement between the French-language Board or one of its sectors and one or more English-language boards and the time specified for making that agreement has elapsed without those parties reaching an agreement, the French-language Board shall by notice in writing to the other party or parties and to the Commission require that the matter be resolved under this Part.

**50** (1) Le conseil plénier nomme à titre de directeur général une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*. Directeur général du conseil plénier

(2) Le directeur général est le chef de service administratif du conseil plénier. Idem

(3) Les paragraphes 253 (2) et (3) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au directeur général du conseil plénier. Champ d'application de certaines dispositions du chap. 129 des L.R.O. de 1980

**51** (1) Les articles 254 et 255 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Nomination des agents de supervision

(2) L'article 256 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Fonctions des agents de supervision

(3) Malgré le paragraphe 256 (4) de la *Loi sur l'éducation*, la section catholique, la section publique et le conseil plénier, ou deux d'entre eux, peuvent conclure une entente selon laquelle l'un d'eux achète les services d'un agent de supervision d'un autre d'entre eux. Partage d'un agent de supervision

(4) L'article 257 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Suspension ou congédiement d'un agent de supervision

(5) Le Conseil de langue française ne doit pas abolir le poste d'un agent de supervision sans l'approbation du ministre. Abolition de poste

## PARTIE XI

### RÉSOLUTION DES CONFLITS

**52** (1) Si la présente loi prévoit que l'exercice d'un pouvoir, d'une fonction ou d'un droit nécessite l'approbation des deux sections et que les sections ne s'entendent pas quant à l'exercice de ce pouvoir, de cette fonction ou de ce droit, l'une ou l'autre des sections peut, en remettant un avis écrit à l'autre section et à la Commission, demander que la question soit résolue en vertu de la présente partie. Avis de demande de résolution

(2) Si la présente loi prévoit qu'une question doit être résolue au moyen d'une entente entre le Conseil de langue française ou une de ses sections et un ou plusieurs conseils de langue anglaise, et que le délai imparti pour conclure cette entente a expiré sans que ces parties soient arrivées à une entente, le Conseil de langue française remet un avis écrit à l'autre ou aux autres parties et à la Commission pour demander que la question soit résolue en vertu de la présente partie. Idem

Panel for  
disputes  
between  
sectors

**53.**—(1) If a matter is referred to the Commission under subsection 52 (1), the chairman of the Commission shall appoint a panel composed of three of its French-speaking members to act for it in respect of that matter and, in that case, references to the Commission in sections 54 to 58 shall be deemed to be references to the panel.

Idem

(2) The chairman shall appoint one of the members of the panel to chair it.

Commission  
to handle  
other  
disputes

(3) The Commission shall act as a whole in respect of a matter referred to it under subsection 52 (2).

Quorum

(4) If the Commission acts as a whole, a quorum consists of seven members of whom at least three shall be French-speaking and three English-speaking.

Person to  
chair  
Commission

(5) The chairman or a person designated by the chairman shall chair the Commission when it acts as a whole.

Parties  
appoint  
mediator

**54.**—(1) Forthwith after notice is given under section 52, the parties shall appoint a mediator to resolve their dispute and shall notify the Commission of the name and address of the mediator.

Referral to  
Commission

(2) If, after fourteen days after a party receives notice under section 52, the parties are unable to agree on the appointment of a mediator, they shall refer the matter to the Commission for appointment of a mediator.

Commission  
appoints  
mediator

(3) The Commission shall appoint a mediator to resolve the dispute forthwith after the matter is referred to it.

Notice of  
appointment

(4) The Commission shall communicate the name and address of a mediator appointed under subsection (3) to the parties.

Remuner-  
ation

**55.**—(1) The parties shall pay the remuneration of the mediator in equal shares.

Idem

(2) A mediator appointed by the parties shall be paid such remuneration as is agreed upon between the mediator and the parties.

Idem

(3) A mediator appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not  
eligible as  
mediator

(4) The following persons shall not be appointed as a mediator:

- 53** (1) Si une question est renvoyée à la Commission en vertu du paragraphe 52 (1), le président de la Commission constitue un comité composé de trois des membres francophones de la Commission qui traite de la question au nom de celle-ci, et, dans ce cas, les renvois à la Commission aux articles 54 à 58 sont réputés des renvois au comité. Comité chargé de résoudre les conflits
- (2) Le président nomme l'un des membres du comité à la présidence. Idem
- (3) La Commission entière traite des questions qui lui sont renvoyées en vertu du paragraphe 52 (2). La Commission traite des autres conflits
- (4) Si la Commission entière traite d'un conflit, le quorum est de sept membres, dont au moins trois francophones et au moins trois anglophones. Quorum
- (5) Lorsque la Commission entière traite d'un conflit, le président ou une personne qu'il désigne assume la présidence de la Commission. Personne qui assume la présidence
- 54** (1) Immédiatement après la remise de l'avis prévu à l'article 52, les parties nomment un médiateur pour résoudre leur conflit et avisent la Commission du nom et de l'adresse du médiateur. Nomination d'un médiateur par les parties
- (2) Si, au bout de quatorze jours après qu'une partie reçoit l'avis prévu à l'article 52, les parties n'arrivent pas à s'entendre sur la nomination d'un médiateur, elles renvoient la question à la Commission en vue de faire nommer un médiateur. Renvoi à la Commission
- (3) La Commission nomme un médiateur pour résoudre le conflit immédiatement après avoir été saisie de la question. Nomination d'un médiateur par la Commission
- (4) La Commission communique aux parties le nom et l'adresse du médiateur nommé en vertu du paragraphe (3). Avis de nomination
- 55** (1) Les parties paient à parts égales la rémunération du médiateur. Rémunération
- (2) Le médiateur nommé par les parties reçoit la rémunération dont il convient avec les parties. Idem
- (3) Le médiateur nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem
- (4) Les personnes suivantes ne doivent pas être nommées médiateur : Inadmissibilité aux fonctions de médiateur

1. A member of the Commission.
2. A member of the French-language Board or of an English-language board.
3. The spouse of a person mentioned in paragraph 1 or 2.

Duties of mediator

**56.**—(1) The mediator shall inquire into the matter referred for mediation, confer with the parties, endeavour to bring about an agreement and report to the parties and to the Commission concerning whether an agreement has been reached.

Time for mediation

(2) The mediator shall make the report under subsection (1) within twenty-one days after being appointed or within such longer period as the parties may agree or the Commission may approve.

Agreement

(3) If an agreement is reached, it shall be in writing and signed by all of the parties to it.

Arbitration board appointed by parties

**57.**—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are two parties to the dispute.

Appointment of two members of arbitration board

(2) Each party shall, within ten days of receiving the mediator's report, appoint a person to the arbitration board and notify the Commission of the appointment.

If party fails to appoint a person

(3) If one party fails to appoint a person within ten days of receiving the mediator's report, the other party shall forthwith notify the Commission of the fact, and the Commission shall appoint a person in the place of the first party.

Chair

(4) The two persons appointed to the arbitration board shall jointly appoint a third person to chair it and shall notify the Commission of the appointment.

Idem

(5) If the two persons appointed to the arbitration board do not appoint a third person within ten days of the appointment of the second one of them, the Commission shall appoint a third person to chair the arbitration board.

Remuneration

(6) The parties shall pay the remuneration of the members of the arbitration board in equal shares.

Idem

(7) A member appointed by a party shall be paid such remuneration as is agreed upon between them.



1. Un membre de la Commission.
2. Un membre du Conseil de langue française ou d'un conseil de langue anglaise.
3. Le conjoint d'une personne visée à la disposition 1 ou 2.

**56** (1) Le médiateur fait enquête sur la question soumise à sa médiation, s'entretient avec les parties, s'efforce de les faire arriver à une entente et présente aux parties et à la Commission un rapport indiquant si les parties sont arrivées à une entente.

Fonctions du médiateur

(2) Le médiateur présente le rapport prévu au paragraphe (1) dans les vingt et un jours qui suivent sa nomination ou dans un délai plus long dont les parties peuvent convenir ou que la Commission peut approuver.

Délai de médiation

(3) Si les parties arrivent à une entente, cette dernière est mise par écrit et signée par toutes les parties à cette entente.

Entente

**57** (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a deux parties au conflit.

Conseil d'arbitrage constitué par les parties

(2) Dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, chaque partie nomme une personne au conseil d'arbitrage et en avise la Commission.

Nomination de deux membres du conseil d'arbitrage

(3) Si une partie ne nomme personne dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, l'autre partie en avise la Commission sans délai et cette dernière nomme une personne à la place de la première partie.

Cas où une partie ne nomme personne

(4) Les deux personnes nommées au conseil d'arbitrage nomment ensemble une troisième personne à la présidence et en avisent la Commission.

Présidence

(5) Si les deux personnes nommées au conseil d'arbitrage ne nomment pas une troisième personne dans les dix jours de la nomination du deuxième d'entre eux, la Commission nomme une troisième personne à la présidence du conseil d'arbitrage.

Idem

(6) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage.

Rémunération

(7) Le membre nommé par une partie reçoit la rémunération dont ils conviennent entre eux.

Idem

- Idem (8) A member appointed by the other members shall be paid such remuneration as is agreed upon between him or her and the parties.
- Idem (9) A member appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- Duty of arbitration board (10) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of the appointment of the third person.
- Majority decision (11) The decision of a majority of the members of the arbitration board is the board's decision.
- Decision final (12) The arbitration board's decision is final and binding upon the parties.
- R.S.O. 1980, c. 25 does not apply (13) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.
- Arbitration board appointed by Lieutenant Governor in Council (14) **58.**—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are more than two parties to the dispute.
- Commission to notify Lieutenant Governor in Council (15) If this section applies to a dispute, the Commission shall notify the Lieutenant Governor in Council of the fact as soon as possible.
- Appointment of arbitration board to resolve dispute (16) The Lieutenant Governor in Council shall appoint an arbitration board of one or three persons to resolve the dispute.
- Remuneration (17) The parties shall pay the remuneration of the members of the arbitration board in equal shares.
- Idem (18) The members of the arbitration board shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- Duty of arbitration board (19) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of being appointed.
- Majority decision (20) If the arbitration board consists of three persons, the decision of a majority of them is the board's decision.
- Decision final (21) The arbitration board's decision is final and binding upon the parties.

- (8) Le membre nommé par les autres membres reçoit la rémunération dont il convient avec les parties. Idem
- (9) Le membre nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem
- (10) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent la nomination de la troisième personne. Devoir du conseil d'arbitrage
- (11) La décision de la majorité des membres du conseil d'arbitrage est la décision du conseil. Décision majoritaire
- (12) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive
- (13) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article. Non-application du chap. 25 des L.R.O. de 1980
- 58** (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a plus de deux parties au conflit. Conseil d'arbitrage constitué par le lieutenant-gouverneur en conseil
- (2) Si le présent article s'applique à un conflit, la Commission en avise le lieutenant-gouverneur en conseil le plus tôt possible. La Commission avise le lieutenant-gouverneur en conseil
- (3) Le lieutenant-gouverneur en conseil constitue un conseil d'arbitrage composé d'une ou de trois personnes pour résoudre le conflit. Constitution d'un conseil d'arbitrage pour résoudre le conflit
- (4) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage. Rémunération
- (5) Les membres du conseil d'arbitrage reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem
- (6) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent sa constitution. Devoir du conseil d'arbitrage
- (7) Si le conseil d'arbitrage est composé de trois personnes, la décision de la majorité d'entre eux est la décision du conseil. Décision majoritaire
- (8) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive

R.S.O. 1980,  
c. 25 does  
not apply

(9) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.

Enforcement  
of decision

(10) A party to a dispute under this section between the French-language Board or one of its sectors and one or more English-language boards may cause a copy of the arbitration board's decision to be filed in the office of the Registrar of the Supreme Court, exclusive of the reasons therefor, and the decision shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such.

Idem

(11) A decision of the arbitration board in respect to a dispute between the public sector and the Roman Catholic sector shall be deemed to be a decision of the French-language Board.

Idem

(12) A party to a dispute under this section between the public sector and the Roman Catholic sector may cause a copy of the arbitration board's decision to be filed in the office of the Registrar of the Supreme Court, exclusive of the reasons therefor, and the decision shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such against any member of either sector.

## PART XII

### TRANSFER OF BUILDINGS AND ASSETS TO FRENCH-LANGUAGE BOARD

Transfer of  
real property

**59.**—(1) Any real property of an English-language board that on the 31st day of January, 1988 was a school site used by French-language instructional units shall be transferred to the French-language Board on the 1st day of January, 1989.

Idem

(2) If a school site used by French-language instructional units of an English-language board on the 31st day of January, 1988 ceases to be so used on or before the 31st day of December, 1988 and a second school site is so used in its place, the French-language Board may require the second school site to be transferred to it under subsection (1) in the place of the first school site.

Idem

(3) Subject to subsection (2), if a school site was not used by French-language instructional units on the 31st day of January, 1988 but becomes so used on or before the 31st day of December, 1988, the school site shall be transferred to the French-language Board on the 1st day of January, 1989.

Transfer of  
personal  
property

(4) All of the personal property of an English-language board that was used at any time during the period from the

(9) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article.

Non-application du chap. 25 des L.R.O. de 1980

(10) Une partie à un conflit visé au présent article entre le Conseil de langue française ou une de ses sections, et un ou plusieurs conseils de langue anglaise peuvent faire déposer une copie de la décision du conseil d'arbitrage, à l'exclusion des motifs, au bureau de greffier de la Cour suprême. La décision est inscrite de la même façon qu'un jugement de la Cour suprême et est exécutoire à ce titre.

Exécution de la décision

(11) Une décision du conseil d'arbitrage à l'égard d'un conflit entre la section publique et la section catholique est réputée une décision du Conseil de langue française.

Idem

(12) Une partie à un conflit visé au présent article entre la section publique et la section catholique peut faire déposer une copie de la décision du conseil d'arbitrage, à l'exclusion des motifs, au bureau du greffier de la Cour suprême. La décision est inscrite de la même façon qu'un jugement de la Cour suprême et est exécutoire à ce titre contre tout membre de l'une ou l'autre des sections.

Idem

## PARTIE XII

### TRANSFERT DE BÂTIMENTS ET DE BIENS AU CONSEIL DE LANGUE FRANÇAISE

**59** (1) Les biens immeubles d'un conseil de langue anglaise qui, le 31 janvier 1988, constituaient des emplacements scolaires utilisés par des modules scolaires de langue française sont transférés au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Transfert de biens immeubles

(2) Si un emplacement scolaire utilisé par des modules scolaires de langue française d'un conseil de langue anglaise le 31 janvier 1988 cesse d'être ainsi utilisé le 31 décembre 1988 ou avant, et qu'un second emplacement scolaire est utilisé à sa place, le Conseil de langue française peut exiger que ce second emplacement lui soit transféré, aux termes du paragraphe (1), à la place du premier emplacement.

Idem

(3) Sous réserve du paragraphe (2), si un emplacement scolaire n'était pas utilisé par des modules scolaires de langue française le 31 janvier 1988, mais le devient au plus tard le 31 décembre 1988, l'emplacement scolaire est transféré au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Idem

(4) Tous les biens meubles d'un conseil de langue anglaise qui étaient utilisés en tout temps entre le 31 janvier 1988 et le

Transfert de biens meubles

31st day of January, 1988 to the 31st day of December, 1988 on a school site that is to be transferred under this section shall be transferred to the French-language Board on the 1st day of January, 1989. ▲

Debts re  
transferred  
property

(5) The French-language Board shall pay to the relevant English-language board on or before the due date all amounts of principal and interest becoming due upon any outstanding debts in respect of a school site transferred under this section from that English-language board to the French-language Board.

Transfer not  
a closing

(6) A transfer of a school site under this section is not a closing of a school. ▼

Agreement

(7) Subsections (1) to (4) are subject to any agreement concerning the transfer of school sites and the personal property on them,

(a) made between the French-language Board and an English-language board; or

(b) made before the 1st day of December, 1988 between two English-language boards and concurred in by a majority of the members of the French-language Education Council of each of them and a majority of the other members of each of them. ▲

Allocation of  
school sites

(8) The school sites transferred to the French-language Board by The Ottawa Board of Education or The Carleton Board of Education shall be allocated to the public sector and the school sites transferred to the French-language Board by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic School Board shall be allocated to the Roman Catholic sector. ▼

Allocation of  
personal  
property

(9) The personal property transferred to the French-language Board under this section shall be allocated to the sector to which the school site on which it was used is allocated.

Re-allocation  
of school  
sites

(10) If there is a major shift in enrolment of pupils from one sector to the other, the sectors shall, by resolutions of both of them, re-allocate the school sites transferred to the French-language Board under this section to meet the needs of both sectors consequent upon that shift in enrolment.

Idem

(11) If only one sector resolves that a school site be re-allocated under subsection (10), either sector may require that the matter be resolved under Part XI. ▲

31 décembre 1988 sur un emplacement scolaire qui doit être transféré aux termes du présent article sont transférés au Conseil de langue française le 1<sup>er</sup> janvier 1989. ▲

(5) Le Conseil de langue française paie au conseil de langue anglaise intéressé, au plus tard à la date d'exigibilité, tous les montants de principal et d'intérêts qui deviennent exigibles sur les dettes impayées à l'égard d'un emplacement scolaire transféré, aux termes du présent article, de ce conseil de langue anglaise au Conseil de langue française. ▲

Dettes  
relatives  
aux biens  
transférés

(6) Le transfert d'un emplacement scolaire aux termes du présent article ne constitue pas la fermeture d'une école. ▼

Le transfert  
n'est pas une  
fermeture

(7) Les paragraphes (1) à (4) sont assujettis à toute entente concernant le transfert d'emplacements scolaires et de biens meubles qui s'y trouvent, selon le cas : Entente

- a) conclue entre le Conseil de langue française et un conseil de langue anglaise;
- b) conclue avant le 1<sup>er</sup> décembre 1988 entre deux conseils de langue anglaise et à laquelle souscrivent la majorité des membres du conseil de l'enseignement en langue française de chacun de ces conseils et la majorité des autres membres de chacun d'eux. ▲

(8) Les emplacements scolaires transférés au Conseil de langue française par le Conseil de l'éducation d'Ottawa et le Conseil de l'éducation de Carleton sont attribués à la section publique, et les emplacements scolaires transférés au Conseil de langue française par le Conseil des écoles séparées catholiques d'Ottawa et le Conseil des écoles séparées catholiques de Carleton sont attribués à la section catholique. ▼

Attribution  
des  
emplacements  
scolaires

(9) Les biens meubles transférés au Conseil de langue française aux termes du présent article sont attribués à la section à laquelle l'emplacement scolaire où ils sont utilisés est attribué. ▼

Attribution  
des biens  
meubles

(10) S'il se produit un déplacement important de l'effectif d'une section à l'autre, les sections, par voie de résolution des deux, procèdent à une nouvelle attribution des emplacements scolaires transférés au Conseil de langue française aux termes du présent article afin de répondre aux besoins des deux sections en conséquence de ce déplacement de l'effectif. ▼

Nouvelle attribution  
des  
emplacements  
scolaires

(11) Si une seule des sections décide, par voie de résolution, de procéder à une nouvelle attribution d'un emplacement scolaire aux termes du paragraphe (10), l'une ou l'autre des sections peut exiger que la question soit résolue aux termes de la partie XI. ▲

Idem

Transfer of  
other assets  
required

**60.**—(1) On or before the 31st day of August, 1989, each English-language board shall transfer to the French-language Board assets and reserves in addition to those transferred under section 59.

Equitable  
contribution

(2) The assets and reserves to be transferred under this section by an English-language board shall represent an equitable contribution of that English-language board to the French-language Board.

Negotiations

(3) Forthwith after the 30th day of April, 1988, the members of each English-language board who are members of its French-language Education Council shall enter into negotiations with the other members of that board to choose the board's assets and reserves to be transferred to the French-language Board under this section.

Resolution

(4) On or before the 31st day of August, 1988, each English-language board shall by resolution confirm its choice of the assets and reserves it intends to transfer to the French-language Board under this section.

Idem

(5) An English-language board shall not adopt a resolution under this section unless a majority of its members who are members of its French-language Education Council and a majority of its other members agree to it.

If no  
resolution

(6) If an English-language board does not adopt a resolution in the time provided by subsection (4), the choice of the assets and reserves to be transferred under this section shall be referred to the Commission as a dispute under Part XI and that Part shall apply with necessary modifications as if the dispute between the members of the French-language Education Council and the other members of the English-language board were a dispute between the French-language Board and an English-language board.

Parties

(7) The members of an English-language board who are members of its French-language Education Council and the other members of the board shall be deemed to be the two parties to a dispute under subsection (6).

Allocation of  
assets

(8) The assets and reserves transferred to the French-language Board under this section shall be allocated to,

- (a) the public sector if they are transferred by The Ottawa Board of Education or The Carleton Board of Education;



**60** (1) Au plus tard le 31 août 1989, chaque conseil de langue anglaise transfère au Conseil de langue française des biens et des réserves en plus de ceux qu'il transfère aux termes de l'article 59.

Transfert  
d'autres biens

(2) Les biens et les réserves que transfère un conseil de langue anglaise aux termes du présent article constituent une contribution équitable de sa part au Conseil de langue française.

Contribution  
équitable

(3) Immédiatement après le 30 avril 1988, les membres de chaque conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise entament des négociations avec les autres membres de leur conseil de langue anglaise afin de choisir les biens et les réserves du conseil qui seront transférés au Conseil de langue française aux termes du présent article.

Négociations

(4) Au plus tard le 31 août 1988, chaque conseil de langue anglaise confirme, par voie de résolution, le choix des biens et des réserves qu'il a l'intention de transférer au Conseil de langue française aux termes du présent article.

Résolution

(5) Un conseil de langue anglaise n'adopte une résolution prévue par le présent article que si la majorité de ses membres qui sont membres de son conseil de l'enseignement en langue française et la majorité de ses autres membres y consentent.

Idem

(6) Si un conseil de langue anglaise n'adopte pas de résolution au plus tard à la date prévue au paragraphe (4), le choix des biens et des réserves qui seront transférés aux termes du présent article est renvoyé à la Commission comme un conflit visé à la partie XI, et cette partie s'applique, avec les adaptations nécessaires, comme si le conflit entre les membres du conseil de l'enseignement en langue française et les autres membres du conseil de langue anglaise était un conflit entre le Conseil de langue française et un conseil de langue anglaise.

Défaut de  
résolution

(7) Les membres d'un conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise et les autres membres du conseil de langue anglaise sont réputés les deux parties au conflit mentionné au paragraphe (6).

Parties

(8) Les biens et les réserves transférés au Conseil de langue française en vertu du présent article sont attribués :

Attribution  
des biens

- a) à la section publique s'ils sont transférés par le Conseil de l'éducation d'Ottawa ou le Conseil de l'éducation de Carleton;

- (b) the Roman Catholic sector if they are transferred by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

If full board  
not satisfied

(9) If on or before the 31st day of December, 1988 a sector determines by resolution that the assets and reserves of an English-language board chosen for transfer to that sector do not represent an equitable contribution, it shall refer the choice of assets and reserves to the Commission as a dispute under Part XI.

Parties

(10) The sector and the relevant English-language board shall be deemed to be the parties to a dispute under subsection (9).

Full board to  
determine  
needs

(11) The full board shall determine what assets it needs in order to exercise its jurisdiction under this Act.

Proportion

(12) Each sector shall allocate a portion of the assets allocated to it under this section to the full board to meet its needs.

Idem

(13) The value of the assets allocated by a sector shall be the same proportion of the value allocated by both sectors that the average daily enrolment of pupils in the schools of the relevant sector bears to the average daily enrolment of pupils in all of the schools of the French-language Board.

Agreement

(14) Each sector shall by agreement with the full board determine which of the assets allocated to it under subsection (8) are to be re-allocated to the full board and shall re-allocate those assets. ▲

## PART XIII

### TRANSFER OF EMPLOYEES TO FRENCH-LANGUAGE BOARD

Definitions

**61.** In this Part,

“employé”  
R.S.O. 1980,  
c. 228

“employee” means a teacher or other employee and includes an employee as defined in the *Labour Relations Act* but does not include the director of education, the secretary or the treasurer of the board;

“ancienneté”

“seniority”, in respect of a transferred employee, means,

- (a) seniority as agreed upon between the English-language board that employed the transferred employee and the organization that entered into a

- b) à la section catholique s'ils sont transférés par le Conseil des écoles séparées catholiques d'Ottawa ou par le Conseil des écoles séparées catholiques de Carleton.

(9) Si, au plus tard le 31 décembre 1988, une section établit par voie de résolution que les biens et les réserves d'un conseil de langue anglaise qui ont été choisis pour le transfert à cette section ne représentent pas une contribution équitable, elle renvoie le choix des biens et des réserves à la Commission comme un conflit visé à la partie XI.

Cas où le conseil plénier n'est pas satisfait

(10) La section intéressée et le conseil de langue anglaise intéressé sont réputés les parties au conflit visé au paragraphe (9).

Parties

(11) Le conseil plénier décide des biens dont il a besoin pour exercer sa compétence en vertu de la présente loi.

Le conseil plénier établit les besoins

(12) Chaque section attribue une partie des biens qui lui sont attribués en vertu de la loi au conseil plénier pour répondre aux besoins de celui-ci.

Proportion

(13) Le rapport entre la valeur des biens attribués par une section et la valeur attribuée par les deux sections est le même que celui qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Idem

(14) Chaque section choisit, au moyen d'une entente avec le conseil plénier, lesquels des biens qui lui sont attribués en vertu du paragraphe (8) doivent être attribués de nouveau au conseil plénier, et attribue de nouveau ces biens. ▲

Entente

## PARTIE XIII

### MUTATION D'EMPLOYÉS AU CONSEIL DE LANGUE FRANÇAISE

**61** Les définitions qui suivent s'appliquent à la présente partie.

Définitions

«ancienneté» S'entend de ce qui suit, en ce qui concerne un employé muté :

«seniority»

- a) soit l'ancienneté dont ont convenu entre eux le conseil de langue anglaise qui employait l'employé muté et l'organisation qui a conclu une convention collective avec le conseil de langue anglaise à l'égard de l'employé muté;

collective agreement with the English-language board in respect of the transferred employees, or

- (b) if there is no collective agreement, seniority as determined in accordance with the policy of the English-language board;

“employé muté”

“transferred employee” means an employee of an English-language board who is transferred to the French-language Board under this Part.

Assignment of services

**62.**—(1) Each English-language board shall assign to the French-language Board the services in respect of French-language instructional units of each of its employees who during the period from the 1st day of September, 1988 to the 31st day of December, 1988 is assigned or recruited to provide services in or on behalf of French-language instructional units.

Period of assignment

(2) The services of each employee shall be assigned for the period beginning from the 1st day of January, 1989 and ending on the earlier of the 31st day of August, 1989 or the date agreed upon by the French-language Board and the relevant English-language board.

Fee for services

(3) The French-language Board shall pay to the relevant English-language board an amount agreed upon by both boards for the services provided under this section.

Definition “employé désigné”

**63.**—(1) In this section, “designated employee” means an employee of an English-language board who on the 1st day of December, 1988,

- (a) is assigned or recruited by that board exclusively for work in or on behalf of French-language instructional units; or
- (b) being employed in the manner described in clause (a), is on authorized leave from that work or temporarily assigned to other work.

Notice to designated employees

(2) On or before the 15th day of December, 1988, each English-language board shall notify each of its designated employees in writing that he or she will be transferred to the French-language Board effective the 1st day of September, 1989.

Idem

(3) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of February, 1989.

- b) soit, s'il n'y a pas de convention collective, l'ancienneté telle qu'elle est établie par la politique du conseil de langue anglaise.

«employé» S'entend d'un enseignant ou d'un autre employé, y compris un employé au sens de la *Loi sur les relations de travail*. Sont toutefois exclus le directeur de l'éducation, le secrétaire et le trésorier du conseil.

«employee»  
L.R.O. 1980,  
chap. 228

«employé muté» Employé d'un conseil de langue anglaise qui est muté au Conseil de langue française aux termes de la présente partie.

«transferred employee»

**62** (1) Chaque conseil de langue anglaise assigne au Conseil de langue française les services à l'égard des modules scolaires de langue française de chacun de ses employés qui, pendant la période allant du 1<sup>er</sup> septembre 1988 au 31 décembre 1988, est affecté ou recruté pour fournir des services dans les modules scolaires de langue française ou pour leur compte.

Assignment de services

(2) Les services de chaque employé sont assignés pour la période commençant le 1<sup>er</sup> janvier 1989 et se terminant soit le 31 août 1989, soit à la date convenue par le Conseil de langue française et le conseil de langue anglaise intéressé, selon celle de ces deux dates qui survient en premier lieu.

Période d'assignation

(3) Le Conseil de langue française paie au conseil de langue anglaise intéressé une somme convenue par les deux conseils pour les services fournis aux termes du présent article.

Paiement des services

**63** (1) Dans le présent article, «employé désigné» s'entend d'un employé d'un conseil de langue anglaise qui, le 1<sup>er</sup> décembre 1988, selon le cas :

Définition «designated employee»

- a) est affecté ou recruté par ce conseil pour travailler exclusivement dans les modules scolaires de langue française ou pour leur compte;
- b) tout en étant employé de la façon décrite à l'alinéa a), est en congé autorisé ou temporairement affecté à d'autres tâches.

(2) Au plus tard le 15 décembre 1988, chaque conseil de langue anglaise avise par écrit chacun de ses employés désignés qu'il sera muté au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989.

Avis aux employés désignés

(3) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1<sup>er</sup> février 1989.

Idem

Notice of positions available

(4) Forthwith after the 1st day of February, 1989, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications invited

(5) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the designated employees who objected to their transfer.

Seniority

(6) The English-language boards shall choose the other employees who are to be transferred in the place of objecting designated employees on the basis of seniority.

Replacement deemed to be designated employee

(7) If another employee who is qualified to be transferred to the French-language Board in the place of a designated employee applies for a position, the other employee shall be deemed to be a designated employee and the employee who objected shall be deemed not to be a designated employee.

Notice of transfer

(8) Forthwith after the 15th day of May, 1989, each English-language board shall notify all of its designated employees in writing that they will be transferred to the French-language Board effective the 1st day of September, 1989.

Responsibility for contracts

(9) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee who is transferred under this section is transferred to and assumed by the French-language Board effective the 1st day of September, 1989.

Similar employment

(10) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Collective agreement

(11) Subsections (2) to (7) are subject to any applicable collective agreement.

Determine number of employees

64.—(1) Each English-language board shall determine the number of its employees other than those designated under section 63 whose services will not be required by it consequent upon the formation of the French-language Board.

Determine number of positions

(2) The French-language Board shall determine the number of positions it will need to fill consequent upon its formation.

(4) Immédiatement après le 1<sup>er</sup> février 1989, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines.

Avis des postes disponibles

(5) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés désignés qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de demandes

(6) Les conseils de langue anglaise choisissent en fonction de l'ancienneté les autres employés qui seront mutés à la place des employés désignés qui s'opposent à leur mutation.

Ancienneté

(7) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place d'un employé désigné fait une demande d'emploi, l'autre employé est réputé un employé désigné et l'employé qui s'est opposé est réputé ne pas être un employé désigné.

Remplaçant réputé un employé désigné

(8) Immédiatement après le 15 mai 1989, chaque conseil de langue anglaise avise par écrit tous ses employés désignés qu'ils seront mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989.

Avis de mutation

(9) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé muté en vertu du présent article est transféré au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989, et ce conseil l'assume.

Responsabilité des contrats

(10) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi semblable

(11) Les paragraphes (2) à (7) sont assujettis à toute convention collective applicable.

Convention collective

**64** (1) Chaque conseil de langue anglaise décide du nombre de ses employés, autres que ceux qui sont désignés aux termes de l'article 63, dont il ne nécessitera pas les services par suite de la formation du Conseil de langue française.

Nombre d'employés

(2) Le Conseil de langue française décide du nombre de postes qu'il devra combler par suite de sa formation.

Nombre de postes

Select  
employees  
for transfer

(3) The English-language boards and the French-language Board shall select the employees of the English-language boards who are to be transferred to the French-language Board to fill the positions referred to in subsection (2).

Selection by  
agreements

(4) The selections under subsection (3) shall be made by agreements between the public sector and The Ottawa Board of Education, the public sector and The Carleton Board of Education, the Roman Catholic sector and The Ottawa Roman Catholic Separate School Board and the Roman Catholic sector and The Carleton Roman Catholic Separate School Board.

Agreements  
may be  
combined


(5) Either sector, by written notice to the two English-language boards with which it is to make agreements under subsection (4), may choose to negotiate one agreement with both of them rather than separate agreements with each of them.

Contents of  
agreements

(6) The agreements shall provide for,

- (a) the exchange of enrolment and other data among the boards so as to enable them to make the appropriate selections;
- (b) methods for encouraging voluntary transfers of employees to positions with the French-language Board; and
- (c) a right of first refusal, on the basis of seniority, for selected persons with respect to positions that become vacant in their English-language board.

Idem

(7) The agreements may contain provisions in addition to those required by subsection (6), including provisions to encourage the secondment and assignment of services of teachers and supervisory officers of the English-language board to positions with the French-language Board. 

Collective  
agreements

(8) No agreement under subsection (4) renders inoperative any provision in a collective agreement unless the parties to the collective agreement agree in writing to an amendment to it.

Yearly  
selections

(9) The determinations and selection shall be made in 1989, 1990 and 1991, not later than the last day of February in each year.

Notice to  
selected  
employees

(10) On or before the 1st day of March in 1989, 1990 and 1991, each English-language board shall notify in writing each of its employees who have been selected for transfer in the



(3) Les conseils de langue anglaise et le Conseil de langue française choisissent les employés des conseils de langue anglaise qui doivent être mutés au Conseil de langue française pour combler les postes visés au paragraphe (2). Choix des employés devant être mutés

(4) Les choix prévus au paragraphe (3) sont faits au moyen d'ententes entre la section publique et le Conseil de l'éducation d'Ottawa, la section publique et le Conseil de l'éducation de Carleton, la section catholique et le Conseil des écoles séparées catholiques d'Ottawa, et la section catholique et le Conseil des écoles séparées catholiques de Carleton. Choix au moyen d'une entente

(5) L'une ou l'autre des sections peut, au moyen d'un avis écrit remis aux deux conseils de langue anglaise avec lesquels elle conclut des ententes aux termes du paragraphe (4), choisir de négocier une seule entente avec les deux conseils plutôt qu'une entente distincte avec chacun d'eux. Les ententes peuvent être jointes

(6) Les ententes prévoient ce qui suit : Contenu des ententes

- a) l'échange de données sur l'effectif et d'autres sujets entre les conseils de façon à leur permettre de faire les choix appropriés;
- b) des méthodes visant à encourager les employés à accepter volontairement des mutations à des postes au Conseil de langue française;
- c) un droit de premier refus, en fonction de l'ancienneté, pour les personnes choisies en ce qui concerne les postes qui deviennent vacants dans leur conseil de langue anglaise. ▲

(7) Les ententes peuvent comprendre, outre les dispositions exigées par le paragraphe (6), des dispositions visant notamment à encourager les détachements et l'assignation des services d'enseignants et d'agents de supervision des conseils de langue anglaise à des postes au Conseil de langue française. Idem

(8) L'entente prévue au paragraphe (4) ne rend inopérante aucune disposition d'une convention collective, à moins que les parties à la convention collective ne conviennent, par écrit, de modifier la convention collective. Conventions collectives

(9) Les décisions et le choix sont faits en 1989, 1990 et 1991, au plus tard le dernier jour de février de chaque année. Choix annuels

(10) Au plus tard le 1<sup>er</sup> mars en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit chacun de ses employés qui ont été choisis pour la mutation au cours de Avis aux employés choisis

relevant year that he or she will be transferred to the French-language Board effective the 1st day of September next following.

Idem

(11) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of April in that year.

Notice of positions available

(12) Forthwith after the 1st day of April in 1989, 1990 and 1991, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications invited

(13) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the selected employees who objected to their transfer.

Replacement deemed to be selected

(14) If another employee who is qualified to be transferred to the French-language Board in the place of the selected employee applies for a position, the other employee shall be deemed to be so selected and the employee who objected shall be deemed not to be so selected.

Notice of transfer

(15) Forthwith after the 15th day of May in 1989, 1990 and 1991, each English-language board shall give written notice to all of its employees who are selected for transfer in the relevant year that they will be transferred to the French-language Board effective the 1st day of September in that year.

Responsibility for contracts

(16) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee selected under subsection (3) or (14) is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement is reached or such earlier date as all of the boards may agree upon.

Similar employment

(17) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Seniority

(18) Subject to any collective agreement in effect, each English-language board shall determine the persons who are to be selected for transfer for any given position under subsection (3) or (14) on the basis of seniority.

l'année en question qu'il sera muté au Conseil de langue française à compter du 1<sup>er</sup> septembre suivant.

(11) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1<sup>er</sup> avril de cette année.

Idem

(12) Immédiatement après le 1<sup>er</sup> avril en 1989, 1990 et 1991, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines.

Avis des postes disponibles

(13) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés choisis qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de demandes

(14) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place de l'employé choisi fait une demande d'emploi, l'autre employé est réputé avoir été choisi et l'employé qui s'est opposé est réputé ne pas l'avoir été.

Remplaçant réputé choisi

(15) Immédiatement après le 15 mai en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit tous ses employés choisis pour la mutation au cours de l'année en question qu'ils seront mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre de cette année.

Avis de mutation

(16) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé choisi en vertu du paragraphe (3) ou (14) est transféré au Conseil de langue française et ce conseil l'assume, à compter du 1<sup>er</sup> septembre qui suit la date de l'entente ou d'une date antérieure dont ont convenu tous les conseils.

Responsabilité des contrats

(17) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi semblable

(18) Sous réserve des conventions collectives en vigueur, chaque conseil de langue anglaise décide en fonction de l'ancienneté des personnes qui sont choisies pour la mutation à des postes donnés aux termes du paragraphe (3) ou (14).

Ancienneté

Priority to employees of English-language boards

(19) In 1989, 1990 and 1991, the French-language Board shall not hire a person who is not an employee of an English-language board to fill a position required to be filled under subsection (2) if there is an employee of an English-language board whose services are no longer required under subsection (1) and who is qualified and available to fill the position.

Collective agreement

(20) Subsections (10) to (14) are subject to any applicable collective agreement.

Identify employees for whom there is no position

**65.**—(1) The agreements made in 1989, 1990 and 1991 under subsection 64 (4) shall identify the employees of each English-language board for whom there is no position on the English-language board or the French-language Board consequent upon the formation of the French-language Board.

Entitled to training assistance

(2) An employee described in subsection (1) is entitled to receive training assistance comparable to the training assistance prescribed for a designated person under subsection 136-1 (9) of the *Education Act*.

R.S.O. 1980, c. 129

Maintain in employ

(3) The relevant sector or the relevant English-language board shall maintain an employee described in subsection (1) in its employ, provide the training assistance to which the employee is entitled and offer the employee employment in a position appropriate to the employee's previous or newly acquired qualifications.

Agreement

(4) The agreements under subsection 64 (4) shall provide for an equitable sharing of the responsibility under subsection (3).

Idem

(5) In determining what is an equitable sharing of responsibility, the boards shall consider for each category of employees within each English-language board all of the relevant circumstances including,

- (a) the number of employees who have been transferred to the French-language Board under sections 63 and 64;
- (b) the number of employees described in subsection (1);
- (c) the total number of employees of the English-language board; and

(19) En 1989, 1990 et 1991, le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé d'un conseil de langue anglaise pour combler un poste qui doit être comblé aux termes du paragraphe (2) s'il y a un employé d'un conseil de langue anglaise dont les services ne sont plus nécessaires aux termes du paragraphe (1) qui est disponible et possède les qualités requises pour assumer ce poste.

Priorité accordée aux employés des conseils de langue anglaise

(20) Les paragraphes (10) à (14) sont assujettis à toute convention collective applicable.

Convention collective

**65** (1) Les ententes conclues en 1989, 1990 et 1991 aux termes du paragraphe 64 (4) énoncent les noms des employés de chaque conseil de langue anglaise pour lesquels il n'y a de poste ni au conseil de langue anglaise ni au Conseil de langue française par suite de la formation du Conseil de langue française.

Noms des employés sans poste

(2) Les employés visés au paragraphe (1) ont le droit de recevoir une aide en matière de formation semblable à l'aide prescrite pour une personne désignée en vertu du paragraphe 136-1 (9) de la *Loi sur l'éducation*.

Aide en matière de formation

L.R.O. 1980, chap. 129

(3) La section intéressée ou le conseil de langue anglaise intéressé garde l'employé visé au paragraphe (1) à son service, lui fournit l'aide en matière de formation à laquelle il a droit et lui offre un poste qui correspond à sa formation préalable ou à sa formation nouvellement acquise.

Maintien en poste

(4) Les ententes visées au paragraphe 64 (4) prévoient un partage équitable de la responsabilité visée au paragraphe (3).

Entente

(5) Pour déterminer ce qui constitue un partage équitable de la responsabilité, les conseils tiennent compte, pour chaque catégorie d'employés dans chaque conseil de langue anglaise, de toutes les circonstances pertinentes, y compris les éléments suivants :

Idem

- a) le nombre d'employés qui ont été mutés au Conseil de langue française en vertu des articles 63 et 64;
- b) le nombre d'employés visés au paragraphe (1);
- c) le nombre total d'employés du conseil de langue anglaise;

- (d) the percentage of pupils who were pupils of that English-language board and have transferred to the French-language Board.

Idem

(6) For the purpose of subsection (5), the categories of employees are supervisory officers, teachers, secretaries, maintenance workers, administrative assistants and other employees.

Responsible for contracts

(7) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee for whom the French-language Board is responsible under this section is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement providing for that responsibility is reached or such earlier date as the parties to the agreement may agree upon.

Priority of identified employees

(8) In 1989, 1990 and 1991, an English-language board shall not hire a person other than an employee identified under subsection (1) to fill a position unless there is no such employee who is qualified to fill the position and whose employment continues to be maintained by any of the English-language boards or the French-language Board.

Jurisdiction within French-language Board

**66.**—(1) The teaching contract, employment contract or employment relationship of a transferred employee is under the jurisdiction of,

- (a) the public sector, if the employee is transferred from The Ottawa Board of Education or The Carleton Board of Education;
- (b) the Roman Catholic sector, if the employee is transferred from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

Agreement for transfer to full board

(2) Subject to section 75, the public sector and the Roman Catholic sector shall each make an agreement with the full board to transfer specified employees and their contracts or employment relationships from the relevant sector to the full board.

Idem

(3) In making the agreements, the parties shall take into account the needs of the relevant sector, the needs of the full board and the requirements under subsections 63 (10) and 64 (17) that transferred employees be employed in positions substantially similar to their positions before the transfer.

- d) le pourcentage d'élèves qui étaient des élèves de ce conseil de langue anglaise et qui sont passés au Conseil de langue française.

(6) Pour l'application du paragraphe (5), les catégories d'employés sont les agents de supervision, les enseignants, les secrétaires, les préposés à l'entretien, les adjoints administratifs et les autres employés. Idem

(7) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, d'un employé dont le Conseil de langue française est responsable aux termes du présent article est transféré au Conseil de langue française et celui-ci l'assume, à compter du 1<sup>er</sup> septembre qui suit la date de l'entente qui prévoit cette responsabilité ou d'une date antérieure dont conviennent les parties à l'entente. Responsabilité des contrats

(8) En 1989, 1990 et 1991, un conseil de langue anglaise ne doit pas engager une personne qui n'est pas un employé dont le nom est énoncé en vertu du paragraphe (1) pour combler un poste à moins qu'il n'y ait pas un tel employé qui possède les qualités requises pour assumer ce poste et qui continue d'être employé par un des conseils de langue anglaise ou le Conseil de langue française. Priorité aux employés dont les noms sont énoncés

**66** (1) Le contrat d'enseignement, le contrat d'emploi ou la relation de travail d'un employé muté relève : Compétence au sein du Conseil de langue française

- a) de la section publique, si l'employé est muté du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton;
- b) de la section catholique, si l'employé est muté du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton.

(2) Sous réserve de l'article 75, la section publique et la section catholique concluent chacune avec le conseil plénier une entente en vue de la mutation d'employés spécifiés et de leur contrat ou relation de travail, de la section intéressée au conseil plénier. Entente en vue de la mutation au conseil plénier

(3) Lorsqu'elles concluent les ententes, les parties tiennent compte des besoins de la section intéressée, des besoins du conseil plénier et des exigences prévues aux paragraphes 63 (10) et 64 (17) selon lesquelles les employés mutés doivent occuper des postes essentiellement semblables à ceux qu'ils occupaient avant la mutation. Idem

## Seniority

(4) Subject to any collective agreement in effect, the parties shall determine on the basis of seniority which employees are to be transferred to the full board.

## Terms of employment

**67.**—(1) The terms of employment of the following transferred employees shall be determined under the collective agreement or board policy that applied to them immediately before the transfer until the French-language Board reaches a new collective agreement or determines a board policy that applies to them:

1. Transferred employees who are transferred from an English-language board in 1989 and who immediately before the transfer were working in a building of that English-language board that was transferred to the French-language Board.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment applying to them immediately before the transfer are determined under a collective agreement or board policy that still applies to other employees with substantially the same job description who were transferred from the same English-language board in 1989.

## Idem

(2) The terms of employment of the following persons shall be determined in the manner provided in subsections (3) and (4):

1. Persons who are not transferred employees and who are recruited or assigned to work for the French-language Board in 1989, 1990 or 1991.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment have been renegotiated by the French-language Board for other transferred employees who,
  - i. were transferred in 1989 from that same English-language board, and
  - ii. have substantially the same job description.
3. Transferred employees who are transferred from an English-language board if,
  - i. immediately before the transfer they were working in a building of that English-language



(4) Sous réserve des conventions collectives en vigueur, les parties choisissent en fonction de l'ancienneté les employés qui sont mutés au conseil plénier. Ancienneté

**67** (1) Les conditions d'emploi des employés mutés suivants sont établies aux termes de la convention collective ou de la politique de conseil qui s'appliquait à eux immédiatement avant la mutation, jusqu'à ce que le Conseil de langue française conclue une nouvelle convention collective ou établisse une politique de conseil qui s'applique à eux : Conditions d'emploi

1. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1989 et qui, immédiatement avant la mutation, travaillaient dans un bâtiment du conseil de langue anglaise qui a été transféré au Conseil de langue française.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi qui s'appliquaient à eux immédiatement avant la mutation sont établies aux termes d'une convention collective ou d'une politique de conseil qui s'applique encore à d'autres employés qui ont des descriptions d'emploi essentiellement semblables et qui ont été mutés du même conseil de langue anglaise en 1989.

(2) Les conditions d'emploi des personnes suivantes sont établies de la façon prévue aux paragraphes (3) et (4) : Idem

1. Les personnes qui ne sont pas des employés mutés et qui sont recrutées ou affectées pour travailler pour le Conseil de langue française en 1989, 1990 ou 1991.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi ont été renégociées par le Conseil de langue française pour les autres employés mutés qui :
  - i. d'une part, ont été mutés en 1989 du même conseil de langue anglaise,
  - ii. d'autre part, ont des descriptions d'emploi essentiellement semblables.
3. Les employés mutés qui sont mutés d'un conseil de langue anglaise si :
  - i. d'une part, ils travaillaient, immédiatement avant la mutation, dans un bâtiment de ce

board that was not transferred to the French-language Board, and

- ii. the collective agreement or board policy governing their terms of employment is different from that applying to other transferred employees having substantially the same job description who immediately before their transfer were working in a building of that English-language board that was transferred to the French-language Board.

Idem

(3) The terms of employment of a person described in subsection (2) shall be determined under the collective agreement or board policy applying to transferred employees who,

- (a) were transferred from the same English-language board that transferred the building in which the person is recruited or assigned to work; and
- (b) have substantially the same job description.

Idem

(4) If a person described in subsection (2) is recruited or assigned to work in a building that was not transferred from an English-language board, the French-language Board shall determine which collective agreement or board policy governs that person's terms of employment.

Definition  
"ancienneté"

**68.**—(1) In this section, "seniority", in respect of a position in a school or premises of the French-language Board, means seniority determined on the basis of the seniority list applying to employees transferred from the same English-language board that transferred the school or premises.

Hiring  
persons

(2) The French-language Board shall not hire a person who is not a transferred employee if there is a transferred employee who is qualified, willing and available to fill the position.

Idem

(3) Before a sector or the full board fills a position, it shall notify all transferred employees and employees described in section 65 of the position by causing a notice to be posted in all of the schools of both sectors and of the English-language boards and at the head office of the French-language Board and the English-language boards.

conseil de langue anglaise qui n'a pas été transféré au Conseil de langue française,

- ii. d'autre part, la convention collective ou la politique de conseil qui régit leurs conditions d'emploi est différente de celle qui s'applique aux autres employés mutés qui ont des descriptions d'emploi essentiellement semblables et qui, immédiatement avant leur mutation, travaillaient dans un bâtiment de ce conseil de langue anglaise qui a été transféré au Conseil de langue française.

(3) Les conditions d'emploi de la personne décrite au paragraphe (2) sont établies aux termes de la convention collective ou de la politique de conseil s'appliquant aux employés mutés qui : Idem

- a) d'une part, ont été mutés du même conseil de langue anglaise qui a transféré le bâtiment dans lequel la personne recrutée ou affectée est censée travailler;
- b) d'autre part, ont des descriptions d'emploi essentiellement semblables.

(4) Si la personne décrite au paragraphe (2) est recrutée ou affectée pour travailler dans un bâtiment qui n'a pas été transféré du conseil de langue anglaise, le Conseil de langue française choisit quelle convention collective ou politique de conseil régit les conditions d'emploi de cette personne. Idem

**68** (1) Dans le présent article, «ancienneté», à l'égard d'un poste dans une école ou des lieux du Conseil de langue française, s'entend de l'ancienneté établie en fonction de la liste d'ancienneté qui s'applique aux employés mutés du conseil de langue anglaise qui a transféré l'école ou les lieux. Définition «seniority»

(2) Le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé muté s'il y a un employé muté qui est disponible, qui possède les qualités requises pour assumer le poste et qui accepte de le faire. Engagement de personnes

(3) Avant de combler un poste, la section ou le conseil plénier avise du poste tous les employés mutés et tous les employés décrits à l'article 65 en faisant afficher un avis dans toutes les écoles des deux sections et de tous les conseils de langue anglaise ainsi qu'aux sièges sociaux du Conseil de langue française et des conseils de langue anglaise. Idem

Seniority of transferred employees

(4) No person who is not a transferred employee shall have seniority over a transferred employee who is employed by the French-language Board and has substantially the same job description.

Idem

(5) Subsection (4) applies even if the persons' contracts or employment relationships are administered by different sectors or one is administered by a sector and the other by the full board.

Application of section

(6) This section applies until the 30th day of June, 1999.

Agreement

(7) The French-language Board and the branch affiliate or affiliates representing persons having substantially the same job descriptions may by agreement in writing provide that a provision in this section does not apply to those persons.

Conflict  
R.S.O. 1980,  
c. 228

(8) This section does not apply if an application is made under section 63 of the *Labour Relations Act* in respect of employees who are deemed to be intermingled under section 75 of this Act.

Compensation rate

**69.** If the terms of employment of a transferred employee change under section 67 as a result of the transfer, the employee has the right to an annual rate of salary equal to the greater of,

- (a) the annual rate of salary that the employee would have been entitled to if he or she had continued to be employed by the English-language board in the first year that he or she is employed by the French-language Board; or
- (b) the annual rate of salary of the position in which he or she is employed by the French-language Board.

Sick leave credits

**70.**—(1) Sick leave credits standing to a transferred employee's credit with an English-language board shall be transferred to the plan maintained by the French-language Board at the time the person's employment is transferred.

Idem

(2) If the French-language Board does not maintain a plan at the time a transferred employee's contract or employment relationship is transferred, the employee is entitled to receive sick leave benefits from the French-language Board and the French-language Board shall place to the employee's credit the sick leave credits standing to his or her credit in the plan that applied to the employee while employed by the English-language board.

(4) Quiconque n'est pas un employé muté n'a pas plus d'ancienneté qu'un employé muté ayant une description d'emploi essentiellement semblable au Conseil de langue française.

Ancienneté  
des employés  
mutés

(5) Le paragraphe (4) s'applique même si les contrats ou les relations de travail des personnes sont administrés par des sections différentes ou qu'ils sont administrés les uns par une section et les autres par le conseil plénier.

Idem

(6) Le présent article s'applique jusqu'au 30 juin 1999.

Application  
de l'article

(7) Le Conseil de langue française et la ou les sections locales représentant les personnes qui ont des descriptions d'emploi essentiellement semblables peuvent conclure une entente écrite qui prévoit qu'une disposition du présent article ne s'applique pas à ces personnes.

Entente

(8) Le présent article ne s'applique pas si une requête est présentée en vertu de l'article 63 de la *Loi sur les relations de travail* à l'égard d'employés réputés réunis en vertu de l'article 75 de la présente loi.

Incompatibilité  
L.R.O. 1980,  
chap. 228

**69** Si les conditions d'emploi d'un employé muté changent aux termes de l'article 67 par suite de la mutation, l'employé a droit à un taux de salaire annuel égal au plus élevé des montants suivants :

Taux de  
rémunération

- a) le taux de salaire annuel auquel l'employé aurait eu droit s'il était resté au service du conseil de langue anglaise pendant la première année où il est au service du Conseil de langue française;
- b) le taux de salaire annuel du poste auquel il est employé au Conseil de langue française.

**70** (1) Les crédits pour congés de maladie que l'employé muté a accumulés auprès d'un conseil de langue anglaise sont transférés au régime que maintient le Conseil de langue française au moment de la mutation de l'employé.

Crédits pour  
congés de  
maladie

(2) Si le Conseil de langue française ne maintient pas de régime au moment où le contrat ou la relation de travail de l'employé muté est transféré, l'employé a droit à des congés de maladie de la part du Conseil de langue française, et celui-ci crédite à l'employé les crédits pour congés de maladie que l'employé a accumulés dans le régime qui s'appliquait à lui lorsqu'il était au service du conseil de langue anglaise.

Idem

Credit for  
total accumu-  
lation

(3) If the terms of the plan maintained by the French-language Board differ from the terms of the plan that applied to the transferred employee while employed by the English-language board and the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan maintained by the French-language Board, the transferred employee shall be given credit for the number transferred but is not entitled to accumulate further sick leave credits unless the plan maintained by the French-language Board is amended to permit a greater accumulation.

Accumulation  
and use of  
sick leave  
credits

(4) Subject to subsection (3), a transferred employee is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the French-language Board.

Gratuity

**71.**—(1) Upon termination of employment with the French-language Board, a transferred employee is entitled to payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applied in respect of the person on the last date that the person was employed by the English-language board as though the person had continued to be employed by the English-language board.

Idem

(2) In lieu of the payment under subsection (1), a transferred employee has the right to require payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applies in respect of the person on the last date that the person is employed by the French-language Board.

Idem

(3) The amount of the payment under this section shall be shared by the English-language board and the French-language Board in the ratio that the number of years of the transferred employee's service with each board bears to the total number of years of his or her service with both boards.

Employee  
dispute  
resolution

**72.**—(1) A dispute in respect of any matter arising under this Part in the employment relationship between an employee and the French-language Board or an English-language board may be resolved by a grievance arbitration in accordance with this section.

Parties

(2) The parties to the arbitration are the French-language Board or the relevant English-language board, as the case requires, and the person or, if the person is employed under a collective agreement, the organization that represents the person under the collective agreement.

(3) Si les conditions du régime maintenu par le Conseil de langue française diffèrent des conditions du régime qui s'appliquait à l'employé muté lorsqu'il était au service du conseil de langue anglaise et que le nombre de crédits pour congés de maladie qui sont transférés dépasse le nombre total de crédits de ce genre qui peuvent être accumulés en vertu du régime maintenu par le Conseil de langue française, l'employé muté reçoit un crédit pour le nombre ainsi transféré. Il n'a toutefois pas le droit d'accumuler d'autres crédits pour congés de maladie à moins que le régime maintenu par le Conseil de langue française ne soit modifié afin de permettre l'accumulation d'un plus grand nombre de crédits.

Nombre total  
de crédits  
accumulés

(4) Sous réserve du paragraphe (3), l'employé muté a le droit d'accumuler et d'utiliser des crédits pour congés de maladie conformément au régime que maintient le Conseil de langue française.

Accumulation  
et utilisation  
des crédits  
pour congés  
de maladie

**71** (1) À la fin de son emploi au Conseil de langue française, l'employé muté a le droit de recevoir un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'appliquait à son égard le dernier jour de son emploi auprès du conseil de langue anglaise, comme si la personne était restée au service du conseil de langue anglaise.

Droit à un  
paiement

(2) Au lieu de recevoir le paiement prévu au paragraphe (1), l'employé muté a le droit d'exiger le paiement d'un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'applique à son égard le dernier jour de son emploi au Conseil de langue française.

Idem

(3) Le conseil de langue anglaise et le Conseil de langue française se partagent le montant du paiement prévu au présent article en fonction du rapport qui existe entre le nombre d'années de service de l'employé muté auprès de chaque conseil et le nombre total d'années de service de l'employé muté auprès des deux conseils.

Idem

**72** (1) Un conflit à l'égard d'une question soulevée dans le cadre de la présente partie relativement à la relation de travail entre un employé et le Conseil de langue française ou un conseil de langue anglaise peut être résolu par arbitrage des griefs conformément au présent article.

Résolution  
des conflits  
des employés

(2) Les parties à l'arbitrage sont le Conseil de langue française ou le conseil de langue anglaise intéressé, selon le cas, et la personne ou, si cette dernière est employée aux termes d'une convention collective, l'organisation qui la représente aux termes de la convention collective.

Parties

Grievance  
arbitration  
R.S.O. 1980,  
c. 129

(3) Subsections 136m (3) to (16) and sections 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to a grievance arbitration under subsection (1).

Transfer of  
employees  
from public  
to Roman  
Catholic  
sector

**73.—(1)** Sections 136-1, 136-1a, 136m, 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to the transfer of employees from the public sector to the Roman Catholic sector, and for the purpose of applying those provisions the Roman Catholic sector shall be deemed to begin to perform the duties of a secondary school board on the 1st day of January, 1989.

Regulations  
not to apply

(2) Despite subsection (1), the regulations under section 136-1 of the *Education Act* do not apply to the French-language Board and if the sectors fail to reach an agreement under that section the matter shall be referred to the Commission as a dispute under Part XI.

Application  
of R.S.O.  
1980, c. 464

**74.—(1)** For the purposes of the *School Boards and Teachers Collective Negotiations Act*,

(a) the Roman Catholic sector shall be deemed to be a Roman Catholic separate school board in respect of its elementary schools and a secondary school board in respect of its secondary schools;

(b) the public sector shall be deemed to be a public board in respect of its elementary schools and a secondary school board in respect of its secondary schools.

Idem

(2) For the purposes of that Act, the following branch affiliates shall be deemed to exist:

1. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in elementary schools of the public sector.
2. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the public sector.



(3) Les paragraphes 136m (3) à (16) et les articles 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'arbitrage des griefs prévu au paragraphe (1).

Arbitrage des  
griefs  
L.R.O. 1980,  
chap. 129

**73** (1) Les articles 136-1, 136-la, 136m, 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la mutation d'employés de la section publique à la section catholique. Pour l'application de ces dispositions, la section catholique est réputée commencer à s'acquitter des fonctions d'un conseil d'écoles secondaires le 1<sup>er</sup> janvier 1989.

Mutation  
d'employés de  
la section  
publique à la  
section catho-  
lique

(2) Malgré le paragraphe (1), les règlements pris en application de l'article 136-1 de la *Loi sur l'éducation* ne s'appliquent pas au Conseil de langue française, et si les sections n'arrivent pas à une entente dans le cadre de cet article, la question est renvoyée à la Commission comme un conflit visé à la partie XI.

Certains règle-  
ments ne s'ap-  
pliquent pas

**74** (1) Pour l'application de la *Loi sur la négociation collective entre conseils scolaires et enseignants* :

Champ d'ap-  
plication du  
chap. 464 des  
L.R.O. de  
1980

- a) la section catholique est réputée un conseil d'écoles séparées catholiques en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires;
- b) la section publique est réputée un conseil public en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires.

(2) Pour l'application de cette loi, les sections locales suivantes sont réputées exister :

Idem

1. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles élémentaires de la section publique.
2. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section publique.

- 3. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in elementary schools of the Roman Catholic sector.
- 4. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the Roman Catholic sector.
- 5. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the public sector.
- 6. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the Roman Catholic sector.

Deemed notice of desire to negotiate  
 R.S.O. 1980, c. 464

(3) Notice of desire to negotiate shall be deemed to have been given by each of the branch affiliates under section 9 of the *School Boards and Teachers Collective Negotiations Act* on the 1st day of January, 1989.

Transfer of jurisdiction not limited

(4) Despite subsection 4 (1) of the *School Boards and Teachers Collective Negotiations Act*, nothing in subsection (1) limits the right of the sectors to transfer their jurisdiction over collective bargaining to the full board under subsection 4 (4) of this Act.

Successor rights  
 R.S.O. 1980, c. 228

**75.**—(1) For the purpose of section 63 of the *Labour Relations Act*, the employees who are not teachers and who are transferred from the English-language boards to the public sector shall be deemed to have been intermingled, and,

- (a) the Labour Relations Board may exercise the like powers as it may exercise under subsections 63 (6) and (8) of that Act with respect to the sale of a business under that section;

3. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles élémentaires de la section catholique.
4. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section catholique.
5. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section publique.
6. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section catholique.

(3) L'avis d'intention de négociateur est réputé avoir été donné par chacune des sections locales en vertu de l'article 9 de la *Loi sur la négociation collective entre conseils scolaires et enseignants* le 1<sup>er</sup> janvier 1989.

Avis d'intention de négociateur réputé donné  
L.R.O. 1980, chap. 464

(4) Malgré le paragraphe 4 (1) de la *Loi sur la négociation collective entre conseils scolaires et enseignants*, le paragraphe (1) n'a pas pour effet de restreindre le droit des sections de transférer au conseil plénier, en vertu du paragraphe 4 (4) de la présente loi, leur compétence en matière de négociation collective.

Le transfert de compétence n'est pas restreint

**75** (1) Pour l'application de l'article 63 de la *Loi sur les relations de travail*, les employés qui ne sont pas des enseignants et qui sont mutés des conseils de langue anglaise à la section publique sont réputés réunis et les dispositions suivantes s'appliquent :

Droits du conseil qui succède  
L.R.O. 1980, chap. 228

- a) la Commission des relations de travail peut exercer les mêmes pouvoirs que ceux qu'elle peut exercer en vertu des paragraphes 63 (6) et (8) de cette loi relativement à la vente d'une entreprise aux termes de cet article;

- (b) the public sector has the like rights and obligations as a person to whom a business is sold under that section and who intermingles the employees of one of the person's businesses with those of another of the person's businesses; and
- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees in two or more businesses under section 63 of that Act.

Idem

(2) Subsection (1) applies with necessary modifications in respect of employees transferred to the Roman Catholic sector or to the full board in the same manner as to employees transferred to the public sector.

Certain sections prevail

(3) Sections 69, 70 and 71 prevail over this section in respect of employees described in this section.

Non-application of certain sections

(4) Sections 67, 68 and 72 do not apply to employees described in this section after an application is made to the Labour Relations Board under this section.

## PART XIV

### MISCELLANEOUS, TRANSITION AND COMPLEMENTARY AMENDMENTS

Application of Part I of R.S.O. 1980, c. 129

**76.** Part I of the *Education Act* applies with necessary modifications to the French-language Board.

Visitors, religious exercises and education

**77.** Sections 50, 51 and 136 and subsection 104 (2) of the *Education Act* apply with necessary modifications to the French-language Board.

Transition, 1988 election

**78.** Despite section 277i of the *Education Act*, no members shall be elected to a French-language section of an English-language board in the regular election to be held in 1988.

Transitional period

**79.**—(1) This section applies from the 1st day of December, 1988 to the 31st day of December, 1988.

Non-application of R.S.O. 1980, c. 129, s. 277m

(2) Section 277m of the *Education Act* does not apply to the English-language boards.

- b) la section publique a les mêmes droits et obligations qu'une personne à laquelle est vendue une entreprise aux termes de cet article et qui réunit les employés d'une de ses entreprises avec ceux d'une autre de ses entreprises;
- c) tout syndicat ou conseil de syndicats intéressé a les mêmes droits et obligations qu'il aurait dans le cas d'une réunion d'employés de deux ou plusieurs entreprises aux termes de l'article 63 de cette loi.

(2) Le paragraphe (1) s'applique, avec les adaptations nécessaires, à l'égard des employés mutés à la section catholique ou au conseil plénier de la même façon qu'aux employés mutés à la section publique.

Idem

(3) Les articles 69, 70 et 71 l'emportent sur le présent article à l'égard des employés décrits au présent article.

Certains articles l'emportent

(4) Les articles 67, 68 et 72 ne s'appliquent pas aux employés décrits au présent article après qu'une requête est présentée à la Commission des relations de travail en vertu du présent article.

Non-application de certains articles

## PARTIE XIV

### DISPOSITIONS DIVERSES, DISPOSITIONS TRANSITOIRES ET MODIFICATIONS CORRÉLATIVES

**76** La partie I de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Champ d'application de la partie I du chap. 129 des L.R.O. de 1980

**77** Les articles 50, 51 et 136, et le paragraphe 104 (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Visiteurs, exercices et enseignement religieux

**78** Malgré l'article 277i de la *Loi sur l'éducation*, aucun membre n'est élu à la section de langue française d'un conseil de langue anglaise au cours de l'élection ordinaire devant se tenir en 1988.

Disposition transitoire, élection de 1988

**79** (1) Le présent article s'applique du 1<sup>er</sup> décembre 1988 au 31 décembre 1988.

Période de transition

(2) L'article 277m de la *Loi sur l'éducation* ne s'applique pas aux conseils de langue anglaise.

Non-application de l'art. 277m du chap. 129 des L.R.O. de 1980

When  
approval  
required  
R.S.O. 1980,  
c. 129

(3) An English-language board shall not do anything that is described in subsection 277m (1) (exclusive jurisdiction of French-language sections) of the *Education Act* or that may affect its French-language instructional units without the approval of,

- (a) the Roman Catholic sector, in the case of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board; or
- (b) the public sector, in the case of The Ottawa Board of Education and The Carleton Board of Education.

**80.**—(1) Section 1 of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 40, section 3, is further amended by adding thereto the following clause:

- (i) “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(2) Subsection 13 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 2 and 1982, chapter 56, section 1, is further amended by adding thereto the following paragraphs:

- 16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

. . . . .

- 19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters “p”, “s”, “fp” or “fs”, as the case may be.

(3) Section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsection:

(3) Un conseil de langue anglaise ne doit prendre aucune mesure dans un des domaines décrits au paragraphe 277m (1) (compétence exclusive des sections de langue française) de la *Loi sur l'éducation* ni aucune mesure qui pourrait toucher ses modules scolaires de langue française sans l'approbation :

Cas où une approbation est nécessaire

L.R.O. 1980, chap. 129

- a) de la section catholique, dans le cas du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton;
- b) de la section publique, dans le cas du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton.

**80** (1) L'article 1 de la *Loi sur l'évaluation foncière*, qui constitue le chapitre 31 des Lois refondues de l'Ontario de 1980, tel qu'il est modifié par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction de l'alinéa suivant :

- (i) «French-speaking person» means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.\*

(2) Le paragraphe 13 (1) de cette loi, tel qu'il est modifié par l'article 2 du chapitre 47 des Lois de l'Ontario de 1981 et par l'article 1 du chapitre 56 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction des dispositions suivantes :

16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

. . . . .

19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters «p», «s», «fp» or «fs», as the case may be.\*

(3) L'article 15 de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 47 des Lois de l'Ontario de 1981, est modifié par adjonction du paragraphe suivant :

Idem

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.

(4) Subsection 30 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 2, is amended by striking out “paragraphs 1 to 18 of” in the second line and by striking out clause (b) and inserting in lieu thereof:

(b) such person’s school support; and

(5) Clause 39 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 40, section 3, is amended by striking out “as a public or separate school supporter” in the first and second lines and inserting in lieu thereof “in respect of school support”.

(6) Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 10, is further amended by striking out “as a public or separate school supporter” in the amendment of 1981 and inserting in lieu thereof “in respect of school support”.

**81.** Subsection 275 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Commission  
continued

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.

**82.—**(1) Paragraph 31 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board”.



(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.\* Idem

(4) Le paragraphe 30 (1) de cette loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 58 des Lois de l'Ontario de 1983, est modifié par suppression des mots «paragraphs 1 to 18 of» à la deuxième ligne et par substitution à l'alinéa (b) de ce qui suit :

(b) such person's school support; and\*

(5) L'alinéa 39 (1) c) de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié par substitution, aux mots «as a public or separate school supporter» aux première et deuxième lignes, des mots «in respect of school support».

(6) Le paragraphe 50 (1) de cette loi, tel qu'il est modifié par l'article 10 du chapitre 47 des Lois de l'Ontario de 1981, est modifié de nouveau par substitution, aux mots «as a public or separate school supporter», des mots «in respect of school support».

**81** Le paragraphe 275 (1) de la *Loi sur l'éducation*, qui constitue le chapitre 129 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.\* Commission continued

**82** (1) La disposition 31 de l'article 1 de la *Loi sur les élections municipales*, qui constitue le chapitre 308 des Lois refondues de l'Ontario de 1980, est modifiée par adjonction des mots «or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board».

(2) Section 19 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following clause:

1988, c. ... (g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.

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

1988, c. ... 6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

Commence-  
ment

**83.**—(1) This Act, except sections 15 and 60, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 15 and 60 shall be deemed to have come into force on the 30th day of April, 1988.

Short title

**84.** The short title of this Act is the *Ottawa-Carleton French-Language School Board Act, 1988*.

(2) L'article 19 de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986, est modifié de nouveau par adjonction de l'alinéa suivant :

- (g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.\* 1988, c. ...

(3) Le paragraphe 49 (1) de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986 et par l'article 11 du chapitre 12 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction de la disposition suivante :

- 6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.\* 1988, c. ...

**83** (1) La présente loi, à l'exception des articles 15 et 60, entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

(2) Les articles 15 et 60 sont réputés être entrés en vigueur le 30 avril 1988. Idem

**84** Le titre abrégé de la présente loi est *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton*. Titre abrégé

\*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.



# Bill 109

(Chapter 47  
*Statutes of Ontario, 1988*)

**An Act to establish  
a French-language  
School Board for  
The Regional Municipality  
of Ottawa-Carleton**

The Hon. C. Ward  
*Minister of Education*

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*1st Reading* April 11th, 1988  
*2nd Reading* May 3rd, 1988  
*3rd Reading* June 29th, 1988  
*Royal Assent* June 29th, 1988

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# Projet de loi 109

(Chapitre 47  
*Lois de l'Ontario de 1988*)

**Loi portant création d'un  
Conseil scolaire de  
langue française pour  
la municipalité  
régionale d'Ottawa-Carleton**

L'honorable C. Ward  
*ministre de l'Éducation*

---

*1<sup>re</sup> lecture* 11 avril 1988  
*2<sup>e</sup> lecture* 3 mai 1988  
*3<sup>e</sup> lecture* 29 juin 1988  
*sanction royale* 29 juin 1988

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**Bill 109****1988**

**An Act to establish  
a French-language School Board for  
The Regional Municipality of Ottawa-Carleton**

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

**Projet de loi 109****1988**

**Loi portant création d'un  
Conseil scolaire de langue française pour  
la municipalité régionale d'Ottawa-Carleton**

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

## INTERPRETATION

## Definitions

**1.—(1)** In this Act,

- “municipalité de secteur” “area municipality” means the municipality or corporation of the Township of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier or the Township of West Carleton;
- “Commission” “Commission” means the Languages of Instruction Commission of Ontario continued under Part XI of the *Education Act*;
- “conseil de langue anglaise” “English-language board” means The Ottawa Board of Education, The Carleton Board of Education, The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board;
- “Conseil de langue française” “French-language Board” means The Ottawa-Carleton French-language School Board;
- “module scolaire de langue française” “French-language instructional unit” means a class, group of classes or school in which French is the language of instruction, but does not include a class, group of classes or school established under clause 8 (1) (y) of the *Education Act* (French-language instruction for English-speaking pupils);
- “franco-phone” “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario;
- “conseil plénier” “full board” means all of the members of the French-language Board;
- “ministre” “Minister” means the Minister of Education;
- “section publique” “public sector” means those members of the French-language Board who are elected as members of the public sector;
- “Région” “Region” means The Regional Municipality of Ottawa-Carleton;
- “section catholique” “Roman Catholic sector” means those members of the French-language Board who are elected as members of the Roman Catholic sector;



## INTERPRÉTATION

- 1** (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions
- «Commission» La Commission des langues d'enseignement de l'Ontario maintenue aux termes de la partie XI de la *Loi sur l'éducation*. «Commission»  
L.R.O. 1980  
chap. 129
- «conseil de langue anglaise» Le Conseil de l'éducation d'Ottawa, le Conseil de l'éducation de Carleton, le Conseil des écoles séparées catholiques d'Ottawa ou le Conseil des écoles séparées catholiques de Carleton. «English-language board»
- «Conseil de langue française» Le Conseil scolaire de langue française d'Ottawa-Carleton. «French-language Board»
- «conseil plénier» L'ensemble des membres du Conseil de langue française. «full board»
- «francophone» Personne qui a le droit, en vertu du paragraphe 23 (1) ou (2), sans tenir compte du paragraphe 23 (3), de la *Charte canadienne des droits et libertés*, de faire inscrire ses enfants en français, aux niveaux élémentaire et secondaire, en Ontario. «French-speaking person»
- «ministre» Le ministre de l'Éducation. «Minister»
- «module scolaire de langue française» S'entend d'une classe, d'un groupe de classes ou d'une école dans lesquelles le français est la langue d'enseignement, à l'exclusion toutefois d'une classe, d'un groupe de classes ou d'une école créées en vertu de l'alinéa 8 (1) y) de la *Loi sur l'éducation* (enseignement en langue française à l'intention des élèves anglophones). «French-language instructional unit»
- «municipalité de secteur» La municipalité du canton de Cumberland, de la cité de Gloucester, du canton de Goulbourn, de la cité de Kanata, de la cité de Nepean, du canton d'Osgoode, de la cité d'Ottawa, du canton de Rideau, du village de Rockcliffe Park, de la cité de Vanier ou du canton de Carleton ouest. «area municipality»
- «organisation scolaire» S'entend d'un conseil d'écoles séparées dans la Région, d'un conseil d'écoles publiques dans la Région, de la section publique ou de la section catholique. «school system»
- «Région» La municipalité régionale d'Ottawa-Carleton. «Region»
- «section catholique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section catholique. «Roman Catholic sector»

“organisation scolaire” “school system” means a separate school board in the Region, a public board in the Region, the public sector or the Roman Catholic sector.

Regulations under R.S.O. 1980, c. 129 (2) A reference in this Act to the *Education Act* or to a provision of it shall be deemed to include a reference to the regulations made under that Act or provision.

Definitions under R.S.O. 1980, c. 129 (3) Except where otherwise provided in this Act, words and expressions used in this Act have the same meaning as in section 1 of the *Education Act*.

Application of R.S.O. 1980, c. 129, s. 1 (4) Subsections 1 (2) and (4) of the *Education Act* apply with necessary modifications in respect of the French-language Board.

Application of Constitution Act, 1867 (5) The provisions of this Act shall not be construed in a way that prejudicially affects a right or privilege with respect to denominational schools guaranteed by *The Constitution Act, 1867*.

Idem (6) If it is finally determined by a court that a provision of this Act prejudicially affects a right or privilege enjoyed by Roman Catholic separate school boards under *The Constitution Act, 1867*, that provision is repealed, it being the intention of the Legislature that the remaining provisions of this Act are separate from and independent of the said provision.

## PART I

### FRENCH-LANGUAGE SCHOOL BOARD ESTABLISHED

French-language school board 2.—(1) There is established on the 1st day of December, 1988 a school board for French-language instruction in the Region under the name “The Ottawa-Carleton French-language School Board”.

Idem (2) The French-language Board is a body corporate.

Jurisdiction of French-language Board R.S.O. 1980, c. 129 (3) On and after the 1st day of January, 1989, the French-language Board has all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in French-language instructional units.

«section publique» Les membres du Conseil de langue française qui sont élus à titre de membres de la section publique.

«public sector»

(2) Dans la présente loi, un renvoi à la *Loi sur l'éducation* ou à une disposition de celle-ci est réputé inclure un renvoi aux règlements pris en application de cette loi ou de cette disposition.

Règlements pris en application du chap. 129 des L.R.O. de 1980

(3) Sauf dispositions contraires de la présente loi, les termes et expressions utilisés dans la présente loi s'entendent au sens de l'article 1 de la *Loi sur l'éducation*.

Définitions du chap. 129 des L.R.O. de 1980

(4) Les paragraphes 1 (2) et (4) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard du Conseil de langue française.

Champ d'application de l'art. 1 du chap. 129 des L.R.O. de 1980

(5) Les dispositions de la présente loi ne doivent pas être interprétées de façon à porter préjudice à un droit ou à un privilège en ce qui concerne les écoles confessionnelles qui est garanti par la *Loi constitutionnelle de 1867*.

Champ d'application de la *Loi constitutionnelle de 1867*

(6) Si un tribunal décide finalement qu'une disposition de la présente loi porte préjudice à un droit ou à un privilège en ce qui concerne les écoles confessionnelles qui est garanti par la *Loi constitutionnelle de 1867*, cette disposition est abrogée, l'intention du législateur étant que les autres dispositions de la présente loi soient distinctes et indépendantes de cette disposition.

Idem

## PARTIE I

### CRÉATION DU CONSEIL SCOLAIRE DE LANGUE FRANÇAISE

**2** (1) Est créé, le 1<sup>er</sup> décembre 1988, un conseil scolaire chargé de l'enseignement en langue française dans la Région. Il porte le nom de «Conseil scolaire de langue française d'Ottawa-Carleton».

Conseil scolaire de langue française

(2) Le Conseil de langue française est une personne morale.

Idem

(3) À compter du 1<sup>er</sup> janvier 1989, le Conseil de langue française possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les modules scolaires de langue française.

Compétence du Conseil de langue française  
L.R.O. 1980, chap. 129

Jurisdiction of English-language boards  
R.S.O. 1980, c. 129

(4) On and after the 1st day of January, 1989, the English-language boards have all the powers and shall perform all the duties that are conferred or imposed by the *Education Act* on a board in respect of school instruction in classes, groups of classes or schools other than French-language instructional units.

French-language instruction

(5) On and after the 1st day of January, 1989, Parts XI and XI-A of the *Education Act* do not apply to the English-language boards.

Composition of French-language Board

**3.—(1)** The French-language Board shall have a public sector and a Roman Catholic sector.

Full board

(2) The members of the public sector and the members of the Roman Catholic sector together constitute the full board.

Authority of public sector

(3) The public sector shall govern for the French-language Board the public elementary and secondary schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of Roman Catholic sector

(4) The Roman Catholic sector shall govern for the French-language Board the Roman Catholic elementary and secondary schools and classes of the French-language Board and shall exercise the powers, duties and rights assigned to it by this Act.

Authority of full board

(5) The full board shall exercise the powers, duties and rights assigned to it by this Act.

Matters within exclusive jurisdiction of sectors

(6) Any power, duty or right assigned to the public sector or to the Roman Catholic sector is within the exclusive jurisdiction of the members of the sector to which it is assigned, and a decision of those members with regard to that power, duty or right is a decision of the French-language Board.

Matters within exclusive jurisdiction of full board

(7) Any power, duty or right assigned to the full board is within the exclusive jurisdiction of the full board and a decision of the full board with regard to that power, duty or right is a decision of the French-language Board.

## PART II

### JURISDICTION OF FULL BOARD AND SECTORS

Exclusive jurisdiction of sectors

**4.—(1)** The following matters are within the exclusive jurisdiction of the public sector in respect of the schools and classes that it governs and within the exclusive jurisdiction of the Roman Catholic sector in respect of the schools and classes that it governs:

(4) À compter du 1<sup>er</sup> janvier 1989, les conseils de langue anglaise possèdent tous les pouvoirs et accomplissent toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil à l'égard de l'enseignement dans les classes, les groupes de classes ou les écoles autres que les modules scolaires de langue française.

Compétence des conseils de langue anglaise  
L.R.O. 1980, chap. 129

(5) À compter du 1<sup>er</sup> janvier 1989, les parties XI et XI-A de la *Loi sur l'éducation* ne s'appliquent pas aux conseils de langue anglaise.

Enseignement en français

**3** (1) Le Conseil de langue française comprend une section publique et une section catholique.

Composition du Conseil de langue française

(2) Les membres de la section publique et les membres de la section catholique constituent ensemble le conseil plénier.

Conseil plénier

(3) La section publique gère, pour le Conseil de langue française, les écoles et les classes élémentaires et secondaires publiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat de la section publique

(4) La section catholique gère, pour le Conseil de langue française, les écoles et les classes élémentaires et secondaires catholiques du Conseil de langue française et exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat de la section catholique

(5) Le conseil plénier exerce les pouvoirs, les fonctions et les droits que lui attribue la présente loi.

Mandat du conseil plénier

(6) Les pouvoirs, les fonctions ou les droits attribués à la section publique ou à la section catholique relèvent de la compétence exclusive des membres de la section à laquelle ils sont attribués, et une décision de ces membres à l'égard de ces pouvoirs, fonctions ou droits est une décision du Conseil de langue française.

Questions relevant de la compétence exclusive des sections

(7) Les pouvoirs, les fonctions ou les droits attribués au conseil plénier relèvent de la compétence exclusive du conseil plénier, et une décision de celui-ci à l'égard de ces pouvoirs, fonctions ou droits est une décision du Conseil de langue française.

Questions relevant de la compétence exclusive du conseil plénier

## PARTIE II

### COMPÉTENCE DU CONSEIL PLÉNIER ET DES SECTIONS

**4** (1) Les questions suivantes relèvent de la compétence exclusive de la section publique relativement aux écoles et aux classes qu'elle gère, et de la compétence exclusive de la sec-

Compétence exclusive des sections

1. Planning, establishing and financing instructional units.
2. Administering and closing instructional units.
3. Planning, establishing, implementing and maintaining programs and courses for pupils enrolled in the instructional units.
4. Providing instructional and learning materials.
5. Schools for trainable retarded children and vocational courses.
6. School attendance and visitors to schools.
7. Admitting pupils and entering into agreements with other boards and with the other sector concerning the admission of pupils.
8. Issuing debentures.
9. Investing and borrowing money.
10. Receiving revenue for school purposes, including but not limited to grants and money from municipal levies.
11. Appointing, assigning and removing teachers and other employees in respect of matters within the sector's jurisdiction.
12. Appointing the secretary for the sector.
13. Prescribing the duties of teachers and other employees.
14. Any matter relating to meetings and records of the sector.
15. Advisory committees and special education advisory committees.
16. Counselling services.

tion catholique relativement aux écoles et aux classes qu'elle gère :

1. La planification, la création et le financement de modules scolaires.
2. L'administration et la fermeture de modules scolaires.
3. La planification, la création, la mise en oeuvre et la poursuite de programmes et de cours à l'intention des élèves inscrits dans les modules scolaires.
4. L'approvisionnement en matériel pédagogique et d'apprentissage.
5. Les écoles pour enfants déficients moyens et les cours de formation professionnelle.
6. La fréquentation scolaire et l'admission de visiteurs dans les écoles.
7. L'admission d'élèves et la conclusion d'ententes avec d'autres conseils et avec l'autre section relativement à l'admission d'élèves.
8. L'émission de débentures.
9. Le placement et l'emprunt de sommes d'argent.
10. L'obtention de revenus aux fins scolaires, y compris, notamment, les subventions et les sommes prélevées par les municipalités.
11. La nomination, l'affectation et la révocation d'enseignants et d'autres employés, à l'égard des questions relevant de la compétence de la section.
12. La nomination du secrétaire de la section.
13. La définition des fonctions des enseignants et des autres employés.
14. Les questions relatives aux réunions et aux dossiers de la section.
15. Les comités consultatifs, et les comités consultatifs pour l'enfance en difficulté.
16. Les services d'orientation.

17. Professional development of employees.
18. Establishing committees for the sector.
19. Determining the terms on which teachers and other employees are to be employed and fixing their salaries.
20. Collective bargaining in respect of teachers and other employees.
21. Providing transportation for pupils.
22. Providing school supplies other than instructional and learning materials.
23. Operating cafeterias for employees and pupils.
24. Providing benefits in respect of employees.
25. Providing administrative support services necessary to carry out a power or duty of the sector.
26. Allowances for members.
27. Providing services of psychologists, psychometrists and language pathologists and other specialized services.
28. Maintenance of a media centre.
29. Any other matter not provided for in this Act.

Matters  
requiring  
approval by  
both sectors

(2) The following matters are within the exclusive jurisdiction of both sectors and require approval by a majority of members of each sector:

1. Appointing and removing the executive director, fixing his or her salary, providing his or her benefits, determining the terms of his or her employment and prescribing his or her duties.



17. Le perfectionnement professionnel des employés.
18. La création de comités pour la section.
19. L'établissement des conditions d'emploi des enseignants et des autres employés, et la fixation de leur salaire.
20. Les négociations collectives à l'égard des enseignants et des autres employés.
21. Le transport des élèves.
22. L'approvisionnement en fournitures scolaires, à l'exclusion du matériel pédagogique et d'apprentissage.
23. L'exploitation de cafétérias à l'usage des employés et des élèves.
24. Les avantages offerts aux employés.
25. La fourniture des services de soutien administratif nécessaires à l'exercice d'un pouvoir ou d'une fonction de la section.
26. Les allocations versées aux membres.
27. La fourniture de services de psychologues, de psychométriciens et d'orthophonistes, et d'autres services spécialisés.
28. Le maintien d'un centre de médias.
29. Toute autre question qui n'est pas prévue par la présente loi.

(2) Les questions suivantes relèvent de la compétence exclusive des deux sections et nécessitent l'approbation de la majorité des membres de chaque section :

Questions  
nécessitant  
l'approbation  
des deux  
sections

1. La nomination et la révocation du directeur général, la fixation de son salaire, l'attribution de ses avantages et l'établissement de ses conditions d'emploi ainsi que la définition de ses fonctions.

2. Appointing and removing the auditor for the French-language Board.

Exclusive  
jurisdiction  
of full board

(3) The following matters are within the exclusive jurisdiction of the full board:

1. Establishing and maintaining the head office for the French-language Board and providing administrative services operated from it.
2. Any matter related to meetings and records of the full board.
3. Establishing committees for the full board.
4. Maintaining buildings and premises and furniture and equipment for the French-language Board.
5. Providing all property and liability insurance for the French-language Board.
6. Appointing the treasurer for the French-language Board.
7. Appointing the secretary for the full board.
8. Appointing and removing employees, other than the executive director, in respect of matters within the full board's jurisdiction.
9. Determining the terms on which employees described in paragraph 8 are to be employed, prescribing their duties, fixing their salaries and providing their benefits.
10. An allowance for the chairman of the full board.
11. Collective bargaining in respect of its employees.
12. Professional development of its employees.

Transfer of  
jurisdiction

(4) The public sector and the Roman Catholic sector may by majority resolutions of both sectors transfer the exclusive jurisdiction over part or all of any matter described in paragraphs 19 to 29 of subsection (1) from the sectors to the full board.

2. La nomination et la révocation du vérificateur du Conseil de langue française.

(3) Les questions suivantes relèvent de la compétence exclusive du conseil plénier :

Compétence exclusive du conseil plénier

1. La création et le maintien du siège social du Conseil de langue française et la fourniture des services qui y sont offerts.
2. Les questions relatives aux réunions et aux dossiers du conseil plénier.
3. La création de comités pour le conseil plénier.
4. L'entretien des bâtiments et lieux, de l'ameublement et de l'équipement du Conseil de langue française.
5. La souscription de toutes les assurances responsabilité et de toutes les assurances sur les biens du Conseil de langue française.
6. La nomination du trésorier du Conseil de langue française.
7. La nomination du secrétaire du conseil plénier.
8. La nomination et la révocation des employés, autres que le directeur général, à l'égard des questions relevant de la compétence du conseil plénier.
9. L'établissement des conditions d'emploi des employés visés à la disposition 8, la définition de leurs fonctions, la fixation de leur salaire et l'attribution de leurs avantages.
10. L'allocation versée au président du conseil plénier.
11. Les négociations collectives à l'égard de ses employés.
12. Le perfectionnement professionnel de ses employés.

(4) La section publique et la section catholique peuvent, par voie de résolutions majoritaires des deux sections, transférer des sections au conseil plénier la compétence exclusive à l'égard d'une partie ou de la totalité d'une question décrite aux dispositions 19 à 29 du paragraphe (1).

Transfert de compétence

- Idem (5) A transfer of jurisdiction under subsection (4) may be made subject to any condition, if both resolutions so provide, but there shall not be a transfer of jurisdiction under subsection (4) unless the resolutions are subject to the same conditions.
- Reversion of jurisdiction (6) Subject to subsection (7), the jurisdiction transferred to the full board is transferred back to the sectors at the end of the term of office of the members who resolved that it be transferred to the full board.
- Idem (7) The public sector or the Roman Catholic sector may by resolution transfer back to the sectors the exclusive jurisdiction over a matter transferred to the full board under subsection (4).
- Idem (8) The transfer of exclusive jurisdiction back to the sectors takes effect at the end of the fiscal year of the French-language Board unless the sectors by majority resolutions of both of them agree that it take effect on an earlier date.
- Notice to Minister (9) The secretary of the full board shall transmit to the Minister notice of a transfer of jurisdiction under subsection (4) or (7) forthwith after the transfer.
- Failure to agree (10) Part XI does not apply to a matter described in subsection (4), (5) or (8).
- Agreements (11) If the subject-matter of an agreement to be made by the French-language Board is within the exclusive jurisdiction of,
- (a) the full board, the agreement shall be made by the full board;
  - (b) the public sector or Roman Catholic sector, the agreement shall be made by the relevant sector.
- Religious instruction (12) Religious instruction is within the exclusive jurisdiction of the public sector in respect of the schools and classes that it governs.
- Religious education (13) Religious education is within the exclusive jurisdiction of the Roman Catholic sector in respect of the schools and classes that it governs.
- Acquisition of property (14) The full board shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the acquisition of real or personal property that is to be used by the full board.

(5) Le transfert de compétence visé au paragraphe (4) peut être assujéti à une condition si les deux résolutions le prévoient, mais il n'y a pas de transfert de compétence en vertu du paragraphe (4) à moins que les résolutions ne soient assujétiées aux mêmes conditions. Idem

(6) Sous réserve du paragraphe (7), la compétence transférée au conseil plénier est remise aux sections à la fin du mandat des membres qui ont décidé de la transférer au conseil plénier. Remise de compétence

(7) La section publique ou la section catholique peut, par voie de résolution, remettre aux sections la compétence exclusive à l'égard d'une question transférée au conseil plénier en vertu du paragraphe (4). Idem

(8) La remise de la compétence exclusive aux sections entre en vigueur à la fin de l'exercice du Conseil de langue française, à moins que les sections ne conviennent, par voie de résolutions majoritaires des deux, qu'il entre en vigueur à une date antérieure. Idem

(9) Le secrétaire du conseil plénier avise le ministre d'un transfert de compétence effectué en vertu du paragraphe (4) ou (7) immédiatement après le transfert. Avis au ministre

(10) La partie XI ne s'applique pas aux questions décrites aux paragraphes (4), (5) et (8). Défaut d'entente

(11) Si l'objet d'une entente que doit conclure le Conseil de langue française relève de la compétence exclusive : Ententes

- a) du conseil plénier, l'entente est conclue par ce dernier;
- b) de la section publique ou de la section catholique, l'entente est conclue par la section intéressée.

(12) L'enseignement religieux relève de la compétence exclusive de la section publique en ce qui concerne les écoles et les classes qu'elle gère. Enseignement religieux

(13) L'enseignement religieux relève de la compétence exclusive de la section catholique en ce qui concerne les écoles et les classes qu'elle gère. Enseignement religieux

(14) Le conseil plénier exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de l'acquisition de biens immeubles ou de biens meubles devant être utilisés par le conseil plénier. Acquisition de biens

Idem

(15) The public sector or the Roman Catholic sector shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the acquisition of real or personal property that is to be used by that sector.

Disposal of property

(16) The full board shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the sale, lease or disposal of real or personal property that was acquired by the full board or re-allocated to the full board under Part XII.

Idem

(17) The public sector or the Roman Catholic sector shall exercise exclusive jurisdiction on behalf of the French-language Board in respect of the sale, lease or disposal of real or personal property that was acquired by that sector or was allocated to that sector and not re-allocated to the full board under Part XII.

Interpretation of provisions of R.S.O. 1980, c. 129

**5.**—(1) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the public sector, the Region shall be deemed to be a public school section and a secondary school district and the French-language instructional units of the public sector shall be deemed to be elementary schools and secondary schools, as the case may be, operated by a divisional board of education.

Idem R.S.O. 1980, c. 129

(2) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the Roman Catholic sector, the Region shall be deemed to be an urban separate school zone and the French-language instructional units of the Roman Catholic sector shall be deemed to be urban separate schools operated by a Roman Catholic school board.

Idem

(3) If this Act provides that a provision of the *Education Act* applies to the French-language Board and that provision is within the jurisdiction of the full board, the Region shall be deemed to be a public school section and a secondary school district and the full board shall be deemed to be a divisional board of education.

### PART III

#### SCHOOL ATTENDANCE

Application of R.S.O. 1980, c. 129

**6.** Sections 17 to 27 and 29 to 31 of the *Education Act* apply with necessary modifications to the French-language Board.

(15) La section publique ou la section catholique exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de l'acquisition de biens immeubles ou de biens meubles devant être utilisés par cette section. Idem

(16) Le conseil plénier exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de la disposition, notamment par vente ou location, de biens immeubles ou de biens meubles acquis par le conseil plénier ou attribués de nouveau au conseil plénier en vertu de la partie XII. Disposition de biens

(17) La section publique ou la section catholique exerce la compétence exclusive pour le compte du Conseil de langue française à l'égard de la disposition, notamment par vente ou location, de biens immeubles ou de biens meubles qui ont été acquis par cette section ou attribués à cette section et non attribués de nouveau au conseil plénier en vertu de la partie XII. Idem

**5** (1) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section publique, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et les modules scolaires de langue française de la section publique sont réputés des écoles élémentaires et des écoles secondaires, selon le cas, qui relèvent d'un conseil de l'éducation de division scolaire. Interprétation des dispositions du chap. 129 des L.R.O. de 1980

(2) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence de la section catholique, la Région est réputée une zone urbaine d'écoles séparées, et les modules scolaires de langue française de la section catholique sont réputés des écoles séparées urbaines qui relèvent d'un conseil d'écoles catholiques. Idem  
L.R.O. 1980, chap. 129

(3) Si la présente loi prévoit qu'une disposition de la *Loi sur l'éducation* s'applique au Conseil de langue française et que cette disposition relève de la compétence du conseil plénier, la Région est réputée une circonscription scolaire publique et un district d'écoles secondaires, et le conseil plénier est réputé un conseil de l'éducation de division scolaire. Idem

### PARTIE III

#### FRÉQUENTATION SCOLAIRE

**6** Les articles 17 à 27 et 29 à 31 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application du chap. 129 des L.R.O. de 1980

Resident  
pupil qualifi-  
cation, public  
sector

7.—(1) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the public sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a French-speaking person who is not a public school supporter, a separate school supporter or a supporter of the Roman Catholic sector; or
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the public sector.

Resident  
pupil qualifi-  
cation,  
Roman  
Catholic  
sector

(2) A person who attains the age of six years in any year is, after the 1st day of September in that year, qualified to be a resident pupil in respect of the Roman Catholic sector until the last school day in June in the year in which the person attains the age of twenty-one years if,

- (a) the person and the person's parent or guardian reside in the Region and the person's parent or guardian is a supporter of that sector; or
- (b) the person resides in the Region, is the owner or tenant of land in the Region that is separately assessed and is a supporter of the Roman Catholic sector.

Resident  
pupil  
qualification

(3) A person who is the child of a French-speaking person is qualified to be a resident pupil in respect of a secondary school operated by the public sector or by the Roman Catholic sector if the person is over eighteen years of age and has resided in the Region for the twelve months immediately before his or her admission to a school operated by that sector or to a school operated by a board to which that sector pays fees on the person's behalf.

Idem

(4) The requirement in subsection (1) or (2) that the person be less than twenty-one years of age does not apply for secondary school purposes.

Resident  
pupil

(5) A person who is qualified to be a resident pupil of a sector is a resident pupil if the person enrolls in a school operated by that sector or in a school operated by the other sector or a board to which the sector pays fees on the person's behalf.



7 (1) Quiconque atteint six ans au cours d'une année satisfait, après le 1<sup>er</sup> septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section publique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions  
requises pour  
être élève  
résident de la  
section  
publique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un francophone qui n'est pas contribuable des écoles publiques, des écoles séparées ni de la section catholique;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section publique.

(2) Quiconque atteint six ans au cours d'une année satisfait, après le 1<sup>er</sup> septembre de cette année, aux conditions requises pour être élève résident en ce qui concerne la section catholique, jusqu'au dernier jour de classe du mois de juin de l'année où il atteint vingt et un ans si, selon le cas :

Conditions  
requises pour  
être élève  
résident de la  
section  
catholique

- a) lui-même et son père, sa mère ou son tuteur résident dans la Région et que son père, sa mère ou son tuteur est un contribuable de cette section;
- b) il réside dans la Région, est propriétaire ou locataire d'un terrain, situé dans la Région, qui fait l'objet d'une évaluation distincte, et est contribuable de la section catholique.

(3) Une personne dont le père ou la mère est francophone satisfait aux conditions requises pour être élève résident en ce qui concerne une école secondaire qui relève de la section publique ou de la section catholique si elle a plus de dix-huit ans et qu'elle a résidé dans la Région pendant les douze mois précédant son admission à une école qui relève de cette section ou à une école qui relève d'un conseil auquel cette section verse des droits de scolarité au nom de la personne.

Conditions  
requises pour  
être élève  
résident d'une  
école  
secondaire

(4) La nécessité, prévue au paragraphe (1) ou (2), d'avoir moins de vingt et un ans ne s'applique pas aux fins des écoles secondaires.

Idem

(5) La personne qui satisfait aux conditions requises pour être élève résident d'une section est élève résident si elle s'inscrit dans une école qui relève de cette section ou dans une école qui relève de l'autre section ou d'un conseil auquel la section verse des droits de scolarité au nom de cette personne.

Élève  
résident

Evidence as to right to attend

(6) It is the responsibility of the parent or guardian to submit evidence that a child has a right to attend an elementary school operated by a sector, including proof of age, if necessary.

Admission if pupil moves into residence not assessed in accordance with school support

8. If a child who would otherwise have the right to attend a school operated by one school system moves with his or her parent or guardian who is a supporter of that school system into a residence that is assessed to the support of another school system, and the latest date upon which the assessment of the residence may be changed to support of the first named school system has passed, upon the filing of a notice of change of support for the following year with the assessment commissioner, the child shall be admitted without the payment of a fee, to a school operated by that school system.

Kindergarten, exceptional pupils  
R.S.O. 1980, c. 129

9.—(1) Sections 33 to 36 of the *Education Act* apply with necessary modifications to the French-language Board.

Accessible schools, right to attend

(2) Section 38 of the *Education Act* applies with necessary modifications to a pupil seeking to be admitted to,

- (a) a French-language instructional unit of a nearer school that is not in the Region, if the pupil is a resident pupil of a sector; and
- (b) a nearer school operated by a sector, if the pupil is a resident pupil in respect of a board that is not in the Region and is the child of a French-speaking person.

Admission of adult resident

(3) Subsection 39 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Other issues of admission

(4) Sections 40 to 48 of the *Education Act* apply with necessary modifications to the French-language Board.

Right to attend secondary school

(5) Section 1360 of the *Education Act* applies with necessary modifications to the French-language Board to permit a person who is the child of a French-speaking person to transfer,

- (a) from one sector to another;
- (b) from the public sector to The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board, if the per-

(6) Il appartient au père, à la mère ou au tuteur de présenter les documents prouvant qu'un enfant a le droit de fréquenter une école élémentaire qui relève d'une section, y compris, le cas échéant, ceux qui attestent son âge.

Preuve du droit de fréquenter une école

8 Si un enfant qui aurait autrement le droit de fréquenter une école relevant d'une organisation scolaire déménage avec son père, sa mère ou son tuteur qui est contribuable de cette organisation scolaire dans une résidence qui fait l'objet d'une cotisation en faveur d'une autre organisation scolaire et que la date ultime à laquelle la cotisation de cette résidence peut être changée en faveur de la première organisation scolaire mentionnée est passée, l'enfant est admis, dès le dépôt auprès du commissaire à l'évaluation d'un avis de changement de statut de contribuable pour l'année suivante, sans l'acquiescement de droits de scolarité, à une école qui relève de cette organisation scolaire.

Admission d'un élève qui déménage dans une résidence dont la cotisation ne correspond pas au soutien scolaire

9 (1) Les articles 33 à 36 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Jardin d'enfants, élèves en difficulté  
L.R.O. 1980, chap. 129

(2) L'article 38 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'élève qui cherche à être admis :

Droit de fréquenter des écoles

- a) à un module scolaire de langue française d'une école plus proche qui n'est pas située dans la Région, si l'élève est élève résident d'une section;
- b) à une école plus proche relevant d'une section, si l'élève est élève résident à l'égard d'un conseil qui n'est pas situé dans la Région et si son père ou sa mère est francophone.

(3) Le paragraphe 39 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Admission d'un adulte résident

(4) Les articles 40 à 48 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française.

Autres problèmes d'admission

(5) L'article 1360 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française afin de permettre à la personne dont le père ou la mère est francophone de passer :

Droit de fréquenter une école secondaire

- a) d'une section à l'autre;
- b) de la section publique au Conseil des écoles séparées catholiques d'Ottawa ou au Conseil des écoles séparées catholiques de Carleton, si la personne

son resides within the area of jurisdiction of that separate school board;

- (c) from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate Board to the public sector;
- (d) from the Roman Catholic sector to The Ottawa Board of Education or The Carleton Board of Education, if the person resides within the area of jurisdiction of that board of education;
- (e) from The Ottawa Board of Education or The Carleton Board of Education to the Roman Catholic sector.

Right to  
attend school  
of sector

**10.**—(1) A person is entitled to be a pupil in a school operated by the public sector if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by a public board in the Region; and
- (b) is the child of a French-speaking person.

Idem

(2) A person is entitled to be a pupil in a school operated by the Roman Catholic sector if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by a separate school board in the Region; and
- (b) is the child of a French-speaking person.

Right to  
attend school  
of board

(3) A person is entitled to be a pupil in a school operated by a public board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by the public sector; and
- (b) resides in the area of jurisdiction of that public board.

Idem

(4) A person is entitled to be a pupil in a school operated by a separate school board in the Region if the person,

- (a) is qualified to be a resident pupil in respect of a school operated by the Roman Catholic sector; and

réside dans le ressort de ce conseil d'écoles séparées;

- c) du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton à la section publique;
- d) de la section catholique au Conseil de l'éducation d'Ottawa ou au Conseil de l'éducation de Carleton, si la personne réside dans le ressort de ce conseil de l'éducation;
- e) du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton à la section catholique.

**10** (1) Une personne a le droit d'être élève d'une école qui relève de la section publique si :

Droit de fréquenter une école d'une section

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève d'un conseil public dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(2) Une personne a le droit d'être élève d'une école qui relève de la section catholique si :

Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève d'un conseil d'écoles séparées dans la Région;
- b) d'autre part, son père ou sa mère est francophone.

(3) Une personne a le droit d'être élève d'une école qui relève d'un conseil public dans la Région si :

Droit de fréquenter une école d'un conseil

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève de la section publique;
- b) d'autre part, elle réside dans le ressort de ce conseil public.

(4) Une personne a le droit d'être élève d'une école qui relève d'un conseil d'écoles séparées dans la Région si :

Idem

- a) d'une part, elle satisfait aux conditions requises pour être élève résident à l'égard d'une école qui relève de la section catholique;

- (b) resides in the area of jurisdiction of that separate school board.

Fee

(5) The board or sector in respect of which the child is qualified to be a resident pupil shall pay to the sector or board whose school the child attends a fee equal to the lesser of,

- (a) the fee set by the board or sector; or

- (b) the fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

Admission of  
pupils other  
than French-  
speaking  
pupils

**11.**—(1) If the parent or guardian of a child under the age of eighteen years is not a French-speaking person and the child would qualify to be a resident pupil of a sector if the child's parent or guardian were a French-speaking person, the parent or guardian may request that the child be admitted as a pupil of that sector.

Idem

(2) A person eighteen years of age or older who is not the child of a French-speaking person and who but for that fact would qualify to be a resident pupil of a sector may request to be admitted as a pupil of that sector.

Idem

(3) A sector, on receipt of a request under this section, may admit the person as a pupil if the admission is approved by a majority vote of an admissions committee appointed by the sector and composed of the principal of the school to which admission is sought, a teacher of that school and a supervisory officer employed by the sector.

Fees

(4) If a person is admitted as a pupil of a sector under this section, the board in which the person is qualified to be a resident pupil shall pay to the sector a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

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c. 129

Agreement  
with other  
sector

**12.**—(1) The Roman Catholic sector and the public sector may enter into an agreement to provide instruction of pupils of one sector in a school or schools operated by the other sector.

- b) d'autre part, elle réside dans le ressort de ce conseil d'écoles séparées.

(5) Le conseil ou la section à l'égard duquel ou de laquelle l'enfant satisfait aux conditions requises pour être élève résident paie à la section ou au conseil dont relève l'école que l'enfant fréquente des droits de scolarité équivalant au moindre des montants suivants :

Droits de scolarité

- a) les droits de scolarité fixés par le conseil ou la section;
- b) les droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

L.R.O. 1980, chap. 129

**11** (1) Si le père, la mère ou le tuteur d'un enfant âgé de moins de dix-huit ans n'est pas francophone et que cet enfant satisferait aux conditions requises pour être élève résident d'une section si son père, sa mère ou son tuteur était francophone, le père, la mère ou le tuteur peut demander que l'enfant soit admis comme élève de cette section.

Admission d'élèves non francophones

(2) La personne âgée de dix-huit ans ou plus dont ni le père ni la mère n'est francophone, et qui, si ce n'était ce fait, satisferait aux conditions requises pour être élève résident d'une section peut demander à être admise comme élève de cette section.

Idem

(3) La section qui reçoit une demande présentée en vertu du présent article peut admettre la personne comme élève, si l'admission est approuvée par un vote majoritaire d'un comité d'admission établi par la section et composé du directeur de l'école à laquelle l'admission est demandée, d'un enseignant de cette école et d'un agent de supervision employé par la section.

Idem

(4) Si une personne est admise comme élève d'une section en vertu du présent article, le conseil à l'égard duquel la personne satisfait aux conditions requises pour être élève résident paie à la section des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

L.R.O. 1980, chap. 129

**12** (1) La section catholique et la section publique peuvent conclure une entente en vue de dispenser l'enseignement aux élèves d'une section dans une ou plusieurs écoles qui relèvent de l'autre section.

Entente avec l'autre section

Fees

(2) The sector requesting instruction shall pay to the sector providing instruction a fee calculated in accordance with the regulations under the *Education Act* concerning the payment of fees by one board to another.

R.S.O. 1980,  
c. 129

## PART IV

## FRENCH-LANGUAGE SCHOOL SUPPORT

Exemption of  
supporters  
from public  
school rates

**13.—**(1) Every person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns, who in any year becomes a supporter of the public sector or of the Roman Catholic sector, is exempt from the payment of all rates imposed on such land for public school purposes for the following year and every subsequent year while the person continues to be such a supporter with respect to such land.

Who may be  
supporters

(2) A person paying rates in the Region on land the person occupies as owner or tenant or on unoccupied land the person owns may be,

- (a) a supporter of the Roman Catholic sector, if the person is a French-speaking person and a Roman Catholic;
- (b) a supporter of the public sector, if the person is a French-speaking person.

Becoming a  
supporter

(3) A person becomes a supporter of the public sector or of the Roman Catholic sector in a year if the person is entitled under subsection (2) to be such a supporter and,

- (a) the person, acting alone or by an agent, before the return of the assessment roll in that year, gives to the assessment commissioner notice in writing that the person desires to be such a supporter;
- (b) in that year the person is shown as being such a supporter on the school support list as prepared or revised by the assessment commissioner under section 15 of the *Assessment Act*; or

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c. 31



(2) La section qui demande l'enseignement paie à la section qui le dispense des droits de scolarité calculés conformément aux règlements pris en application de la *Loi sur l'éducation* à l'égard du paiement de droits de scolarité à un conseil par un autre.

Droits de scolarité

L.R.O. 1980, chap. 129

## PARTIE IV

### SOUTIEN SCOLAIRE DES ÉCOLES DE LANGUE FRANÇAISE

**13** (1) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient, et devient, au cours de l'année, contribuable de la section publique ou de la section catholique, est exempté du versement des cotisations scolaires perçues sur ce terrain aux fins des écoles publiques pour l'année suivante et les années ultérieures tant qu'il est contribuable de cette section en ce qui concerne ce terrain.

Exemption de cotisations scolaires aux fins des écoles publiques

(2) Quiconque verse des cotisations scolaires dans la Région sur un terrain qu'il habite à titre de propriétaire ou de locataire ou sur un terrain non occupé mais qui lui appartient peut être :

Qui peut être contribuable

- a) contribuable de la section catholique s'il est francophone et catholique;
- b) contribuable de la section publique s'il est francophone.

(3) Une personne devient, au cours d'une année donnée, contribuable de la section publique ou de la section catholique si elle en a le droit en vertu du paragraphe (2) et si elle satisfait à l'une des conditions suivantes :

Comment on devient contribuable

- a) elle remet au commissaire à l'évaluation par écrit, avant la remise du rôle d'évaluation au cours de cette année, personnellement ou par l'intermédiaire de son représentant, un avis écrit de son désir d'être contribuable de cette section;
- b) cette année-là, elle figure à titre de contribuable de cette section sur la liste de soutien scolaire dressée ou révisée par le commissaire à l'évaluation en vertu de l'article 15 de la *Loi sur l'évaluation foncière*;

L.R.O. 1980, chap. 31

(c) in that year the person is declared to be such a supporter as a result of a final decision rendered in proceedings commenced under the *Assessment Act*.

R.S.O. 1980, c. 31

Penalty for wilful false statements in notice

(4) Any person who fraudulently gives a notice under this section or wilfully makes any false statement in it does not thereby secure an exemption from the rates and, in addition, is guilty of an offence.

As to rates imposed before French-language Board established

(5) Nothing in this section exempts any person from paying any rate for public school purposes or separate school purposes imposed before this Act comes into force.

Notice of withdrawal of support

**14.**—(1) A person ceases to be a supporter of the public sector or of the Roman Catholic sector in a year if, on or before the return of the assessment roll in that year, the person gives to the assessment commissioner notice in writing that the person desires to withdraw that support for the following year.

Supporter for one system at a time

(2) A person may be a supporter of only one school system at any given time.

Transitional, enumeration

**15.**—(1) This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

Idem

(2) A person shall be deemed to have been enumerated as a supporter of the public sector if the person,

- (a) is enumerated as owning land in the Region or occupying land in the Region as a tenant;
- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board; and
- (c) is not deemed under subsection (3) to have been enumerated as a supporter of the Roman Catholic sector.

Idem

(3) A person shall be deemed to have been enumerated as a supporter of the Roman Catholic sector if the person,

- (a) is enumerated as a Roman Catholic who chooses to be a separate school supporter; and

- c) cette année-là, elle est déclarée contribuable de cette section par suite d'une décision définitive rendue dans une instance introduite en vertu de la *Loi sur l'évaluation foncière*.

L.R.O. 1980,  
chap. 31

(4) Quiconque donne frauduleusement un avis prévu au présent article ou y fait intentionnellement une fausse déclaration n'obtient pas d'exemption de cotisations scolaires. Il est en outre coupable d'une infraction.

Peine en cas de fausses déclarations intentionnelles dans l'avis

(5) Aucune disposition du présent article n'exempte une personne du versement, aux fins des écoles publiques ou des écoles séparées, des cotisations scolaires si l'imposition est antérieure à l'entrée en vigueur de la présente loi.

Imposition avant la création du Conseil de langue française

**14** (1) Une personne cesse d'être contribuable de la section publique ou de la section catholique au cours d'une année si elle remet au commissaire à l'évaluation, au plus tard au moment de la remise du rôle d'évaluation au cours de cette année, un avis écrit de son désir de retirer son soutien pour l'année suivante.

Avis de retrait de soutien

(2) Une personne peut être contribuable d'une seule organisation scolaire à la fois.

Contribuable d'une organisation à la fois

**15** (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*.

Disposition transitoire, recensement

(2) Une personne est réputée avoir été recensée comme contribuable de la section publique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme propriétaire d'un terrain dans la Région ou comme locataire et occupant d'un terrain dans la Région;
- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme contribuable de la section catholique.

(3) Une personne est réputée avoir été recensée comme contribuable de la section catholique si elle satisfait aux conditions suivantes :

Idem

- a) elle est recensée comme catholique qui choisit d'être contribuable des écoles séparées;

- (b) is enumerated as a French-speaking person who chooses to vote to elect members of a French-language section of a board.

Application  
of certain  
sections  
R.S.O. 1980,  
c. 129

**16.** Sections 123, 124 and 125 of the *Education Act*, which apply in respect of separate school support, also apply in the Region, with necessary modifications, in respect of support of the public sector and the Roman Catholic sector.

Definitions

**17.—(1)** In this section,

“organisation  
publique”

“public system” means a public board in the Region and includes the public sector;

“organisation  
catholique”

“Roman Catholic system” means a separate school board in the Region and includes the Roman Catholic sector.

If multiple  
owners or  
tenants

(2) The following rules apply in determining the school support of two or more persons who together own land in the Region or occupy land in the Region as tenants:

1. If they all choose to support the same school system, they shall be supporters of that system.
2. If they all choose to support a Roman Catholic system, they shall be supporters of a Roman Catholic system.
3. If at least one of them chooses to support a public system, they shall be supporters of a public system.
4. If they all choose to support the French-language Board they shall be supporters of the French-language Board.
5. If at least one of them chooses to support an English-language board they shall be supporters of the English-language board.

Idem

(3) A person may not choose to support a school system under subsection (2) unless he or she is entitled to support that school system.

Definitions

**18.—(1)** In this section,

- b) elle est recensée comme francophone qui choisit de voter pour élire les membres d'une section de langue française d'un conseil.

**16** Les articles 123, 124 et 125 de la *Loi sur l'éducation*, qui s'appliquent à l'égard du soutien des écoles séparées, s'appliquent également, avec les adaptations nécessaires, dans la Région à l'égard du soutien de la section publique et de la section catholique.

Champ d'application de certains articles  
L.R.O. 1980,  
chap. 129

**17** (1) Les définitions qui suivent s'appliquent au présent article. Définitions

«organisation catholique» S'entend d'un conseil d'écoles séparées dans la Région, y compris la section catholique. «Roman Catholic system»

«organisation publique» S'entend d'un conseil public dans la Région, y compris la section publique. «public system»

(2) Les règles suivantes s'appliquent pour déterminer le soutien scolaire de deux ou plusieurs personnes qui, ensemble, sont propriétaires d'un terrain dans la Région ou locataires et occupants d'un terrain dans la Région :

Plusieurs propriétaires ou locataires

1. Si elles choisissent toutes d'être contribuables de la même organisation scolaire, elles sont contribuables de cette organisation.
2. Si elles choisissent toutes d'être contribuables d'une organisation catholique, elles sont contribuables d'une organisation catholique.
3. Si au moins l'une d'elles choisit d'être contribuable d'une organisation publique, elles sont contribuales d'une organisation publique.
4. Si elles choisissent toutes d'être contribuables du Conseil de langue française, elles sont contribuables du Conseil de langue française.
5. Si au moins l'une d'elles choisit d'être contribuable d'un conseil de langue anglaise, elles sont contribuales du conseil de langue anglaise.

(3) Une personne ne peut pas choisir d'être contribuable d'une organisation scolaire en vertu du paragraphe (2) à moins qu'elle n'ait le droit d'être contribuable de cette organisation scolaire. Idem

**18** (1) Les définitions qui suivent s'appliquent au présent article. Définitions

“évaluation” “assessment”, in respect of a corporation, means the assessment of land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the business or other assessments of the corporation made under the *Assessment Act*;

R.S.O. 1980,  
c. 31

“personnes  
admissibles” “eligible persons” means,

- (a) persons who are Roman Catholic, in the case of the separate schools,
- (b) French-speaking persons, in the case of the public sector, and
- (c) French-speaking persons who are Roman Catholic, in the case of the Roman Catholic sector.

School  
support, right  
of  
corporation

(2) A corporation by notice to the assessment commissioner may require the whole or any part of its assessment to be entered, rated and assessed for the purposes of separate schools, the public sector, the Roman Catholic sector or any combination of them.

Copy of  
notice to  
clerk

(3) The assessment commissioner shall thereupon forward a copy of the notice to the clerk of the area municipality in which the land referred to in the notice is situate.

Duty of  
assessment  
commissioner

(4) Upon receipt of the notice, the assessment commissioner shall enter the corporation on the assessment roll to be next returned with the school support with respect to its assessment for each school system designated in the notice entered separately.

Idem

(5) The assessment commissioner shall separately enter and assess for public school purposes any assessment not designated in the notice.

Duty of clerk

(6) Upon receipt of the notice from the assessment commissioner, the clerk shall enter the corporation in the collector's roll with the school support with respect to the corporation's assessment for each school system designated in the notice entered separately.

Idem

(7) The clerk shall separately enter and show as assessed for public school purposes any assessment not designated in the notice.

How  
proportion  
settled

(8) The share or portion of a corporation's assessment rated and assessed to a school system other than a public school board shall not bear a greater proportion to the corporation's whole assessment than the amount of stock or

«évaluation» En ce qui concerne une personne morale, s'entend de l'évaluation des biens-fonds dont la personne morale est le propriétaire et l'occupant ou, si elle n'en est pas le propriétaire, dont elle est le locataire, l'occupant ou le possesseur de fait, et des évaluations commerciales ou autres de la personne morale effectuées en vertu de la *Loi sur l'évaluation foncière*. «assessment»

L.R.O. 1980,  
chap. 31

«personnes admissibles» S'entend des personnes suivantes :

«eligible  
persons»

- a) les catholiques, dans le cas des écoles séparées;
- b) les francophones, dans le cas de la section publique;
- c) les francophones catholiques, dans le cas de la section catholique.

(2) Une personne morale peut, au moyen d'un avis envoyé au commissaire à l'évaluation, demander que la totalité ou une partie de son évaluation soit inscrite, imposée et évaluée aux fins des écoles séparées, de la section publique, de la section catholique ou d'une combinaison quelconque de celles-ci. Droit des personnes morales en matière de soutien scolaire

(3) Le commissaire à l'évaluation envoie alors une copie de l'avis au secrétaire de la municipalité de secteur où se trouvent les biens-fonds visés dans l'avis. Copie de l'avis au secrétaire

(4) Dès qu'il reçoit l'avis, le commissaire à l'évaluation inscrit la personne morale au prochain rôle d'évaluation qui doit être rendu, en indiquant séparément le soutien scolaire relatif à son évaluation à accorder à chaque organisation scolaire désignée dans l'avis. Obligation du commissaire à l'évaluation

(5) Le commissaire à l'évaluation, aux fins des écoles publiques, inscrit et évalue séparément les évaluations qui ne sont pas désignées dans l'avis. Idem

(6) Dès qu'il reçoit l'avis du commissaire à l'évaluation, le secrétaire inscrit la personne morale au rôle du percepteur, en indiquant séparément le soutien scolaire relatif à l'évaluation de la personne morale à accorder à chaque organisation scolaire désignée dans l'avis. Obligation du secrétaire

(7) Le secrétaire inscrit et indique séparément comme étant évaluées aux fins des écoles publiques les évaluations qui ne sont pas désignées dans l'avis. Idem

(8) La part ou la partie de l'évaluation d'une personne morale imposée et évaluée aux fins d'une organisation scolaire autre qu'un conseil d'écoles publiques ne doit pas représenter une fraction de l'évaluation totale de la personne morale qui est supérieure au rapport qui existe entre le montant des Rapport

shares held by eligible persons bears to the whole amount of the stock or shares.

Notices:  
effect, filing  
and search  
R.S.O. 1980,  
c. 129

(9) Subsections 126 (6), (7) and (8) of the *Education Act* apply with necessary modifications to the French-language Board and the English-language boards.

Secondary  
school  
purposes

(10) This section applies in the same manner for secondary school purposes as for elementary school purposes.

## PART V

### ELECTORS FOR THE FRENCH-LANGUAGE BOARD

Electors for  
public sector  
R.S.O. 1980,  
c. 308

**19.** A French-speaking person who is qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the public sector if the person,

- (a) is a supporter of the public sector;
- (b) is the spouse of a supporter of the public sector;
- (c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the public sector; or
- (d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 20 (b), is enumerated as an elector for the public sector.

Electors for  
Roman  
Catholic  
sector

**20.** A French-speaking person who is a Roman Catholic and qualified under the *Municipal Elections Act* to be an elector in an area municipality is an elector for the Roman Catholic sector if the person,

- (a) is a supporter of the Roman Catholic sector;
- (b) is the spouse of a supporter of the Roman Catholic sector;



actions détenues par des personnes admissibles et le montant total des actions.

(9) Les paragraphes 126 (6), (7) et (8) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française et aux conseils de langue anglaise.

Avis : validité, classement et recherche  
L.R.O. 1980, chap. 129

(10) Le présent article s'applique de la même façon aux fins des écoles secondaires qu'à celles des écoles élémentaires.

Fins des écoles secondaires

## PARTIE V

### ÉLECTEURS DU CONSEIL DE LANGUE FRANÇAISE

**19** Un francophone qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section publique si, selon le cas :

Électeurs de la section publique  
L.R.O. 1980, chap. 308

- a) il est contribuable de la section publique;
- b) il est le conjoint d'un contribuable de la section publique;
- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section publique;
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 20 b) et il est recensé comme électeur de la section publique.

**20** Un francophone qui est catholique et qui satisfait aux conditions requises aux termes de la *Loi sur les élections municipales* pour être électeur dans une municipalité de secteur est électeur de la section catholique si, selon le cas :

Électeurs de la section catholique

- a) il est contribuable de la section catholique;
- b) il est le conjoint d'un contribuable de la section catholique;

R.S.O. 1980,  
c. 308

(c) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), causes his or her name to be entered on the preliminary list of electors of the polling subdivision in which he or she resides as an elector for the Roman Catholic sector; or

(d) not being an owner or tenant as defined in the *Municipal Elections Act* or a person described in clause (b) or 19 (b), is enumerated as an elector for the Roman Catholic sector.

Prohibition

**21.** No person is entitled to vote in a regular election in an area municipality both for members of a sector and for members of another sector or a board under the *Education Act*.

R.S.O. 1980,  
c. 129

Transitional,  
enumeration

**22.—(1)** This section applies in respect of the 1988 enumeration taken in an area municipality under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,  
c. 31

Idem

(2) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the public sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is not deemed under subsection (3) to have been enumerated as an elector for the Roman Catholic sector.

Idem

(3) A person shall be deemed to have been enumerated and shown on the enumeration list as an elector for the Roman Catholic sector if the person,

- (a) is enumerated as entitled to be an elector under section 12 or 13 of the *Municipal Elections Act*;
- (b) is enumerated as a French-speaking person who chooses to vote for French-language trustees; and
- (c) is enumerated as a Roman Catholic who chooses to be a separate school elector.

- c) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il fait inscrire son nom sur la liste préliminaire des électeurs de la section de vote dans laquelle il réside comme électeur de la section catholique; L.R.O. 1980,  
chap. 308
- d) il n'est ni propriétaire ou locataire au sens de la *Loi sur les élections municipales*, ni une personne décrite à l'alinéa b) ou 19 b) et il est recensé comme électeur de la section catholique.

**21** Dans une élection ordinaire qui se déroule dans une municipalité de secteur, nul n'a le droit de voter à la fois pour les membres d'une section et pour les membres d'une autre section ou d'un conseil aux termes de la *Loi sur l'éducation*. Interdiction  
  
L.R.O. 1980,  
chap. 129

**22** (1) Le présent article s'applique à l'égard du recensement de 1988 effectué dans une municipalité de secteur aux termes du paragraphe 14 (1) de la *Loi sur l'évaluation foncière*. Disposition  
transitoire,  
recensement  
L.R.O. 1980,  
chap. 31

(2) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section publique si elle satisfait aux conditions suivantes : Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*;
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle n'est pas réputée, aux termes du paragraphe (3), avoir été recensée comme électeur de la section catholique.

(3) Une personne est réputée avoir été recensée et indiquée sur la liste de recensement comme étant électeur de la section catholique si elle satisfait aux conditions suivantes : Idem

- a) elle est recensée comme ayant le droit d'être électeur en vertu de l'article 12 ou 13 de la *Loi sur les élections municipales*;
- b) elle est recensée comme francophone qui choisit de voter pour les conseillers scolaires francophones;
- c) elle est recensée comme catholique qui choisit d'être électeur des écoles séparées.

## PART VI

## DUTIES AND POWERS OF FRENCH-LANGUAGE BOARD

Duties and powers under R.S.O. 1980, c. 129

**23.**—(1) Section 149, except paragraphs 1 and 2, and section 150 of the *Education Act* apply with necessary modifications to the French-language Board.

Application of sections in Part VI of R.S.O. 1980, c. 129

(2) Sections 151 (scholarships), 152 and 153 (vocational courses), 154 to 158 (benefits), 159 to 165a (agreements), 166 (transportation), 167 (allowances), 169 to 172 (property) and 173 (out-of-classroom programs) of the *Education Act* apply with necessary modifications to the French-language Board.

Disposal of buildings

(3) A sector shall not sell, lease or otherwise dispose of a building or part thereof other than to the other sector unless, in addition to any other approval that may be required, the sector has obtained the approval of the Minister.

Appointment of treasurer

**24.**—(1) There shall be one treasurer for the French-language Board.

Take proper security

(2) The full board shall take proper security from the treasurer.

Powers and duties of treasurer R.S.O. 1980, c. 129

(3) The provisions of the *Education Act* concerning the powers and duties of a treasurer of a board apply with necessary modifications to the treasurer in respect of the full board, the Roman Catholic sector and the public sector as if they all were boards.

Secretary for full board

**25.**—(1) The full board shall appoint a secretary for the matters within its jurisdiction.

Secretaries for sectors

(2) The Roman Catholic sector shall appoint a secretary for matters within its jurisdiction and the public sector shall appoint a secretary for matters within its jurisdiction.

Powers and duties of secretary

(3) The provisions of the *Education Act* concerning the powers and duties of a secretary of a board apply with necessary modifications to the secretary of the full board and the secretaries of each sector as if the full board and each of the sectors were boards.

Application of certain sections of R.S.O. 1980, c. 129

(4) Sections 183 (access to meetings and records), 184 (board meetings), 186 (arbitrators), 187 to 193 (offences and penalties) and 194 (validity of elections) of the *Education Act* apply with necessary modifications to the French-language Board.

## PARTIE VI

FONCTIONS ET POUVOIRS DU CONSEIL DE LANGUE  
FRANÇAISE

- 23** (1) L'article 149, à l'exclusion des dispositions 1 et 2, et l'article 150 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Fonctions et pouvoirs en vertu du chap. 129 des L.R.O. de 1980
- (2) Les articles 151 (bourses d'études), 152 et 153 (cours de formation professionnelle), 154 à 158 (avantages), 159 à 165a (ententes), 166 (transport), 167 (allocations), 169 à 172 (biens) et 173 (programmes périscolaires) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application de certains articles de la partie VI du chap. 129 des L.R.O. de 1980
- (3) Une section ne doit pas disposer, notamment par vente ou location, d'un bâtiment ou d'une partie d'un bâtiment si ce n'est en faveur de l'autre section, à moins que la section ait obtenu, en plus de toute autre approbation requise, l'approbation du ministre. Disposition des bâtiments
- 24** (1) Le Conseil de langue française a un seul trésorier. Nomination d'un trésorier
- (2) Le conseil plénier obtient une sûreté suffisante du trésorier. Obtention d'une sûreté suffisante
- (3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du trésorier d'un conseil s'appliquent, avec les adaptations nécessaires, au trésorier relativement au conseil plénier, à la section catholique et à la section publique comme s'ils étaient tous des conseils. Pouvoirs et fonctions du trésorier  
L.R.O. 1980, chap. 129
- 25** (1) Le conseil plénier nomme un secrétaire pour les questions qui relèvent de sa compétence. Secrétaire du conseil plénier
- (2) La section catholique nomme un secrétaire pour les questions qui relèvent de sa compétence et la section publique nomme un secrétaire pour les questions qui relèvent de la sienne. Secrétaires des sections
- (3) Les dispositions de la *Loi sur l'éducation* concernant les pouvoirs et les fonctions du secrétaire d'un conseil s'appliquent, avec les adaptations nécessaires, au secrétaire du conseil plénier et au secrétaire de chacune des sections comme si le conseil plénier et chacune des sections étaient des conseils. Pouvoirs et fonctions du secrétaire
- (4) Les articles 183 (réunions publiques et accès aux archives), 184 (réunions du conseil), 186 (arbitres), 187 à 193 (infractions et amendes) et 194 (validité des élections) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application de certains articles du chap. 129 des L.R.O. de 1980

Declaration and oath  
R.S.O. 1980,  
c. 129

(5) Section 185 of the *Education Act* applies with necessary modifications to the public sector and the Roman Catholic sector as if they both were boards.

Roman Catholic  
sector,  
secondary  
education

**26.** Subject to this Act, the Roman Catholic sector has all the powers and shall perform all the duties that the *Education Act* confers or imposes on a secondary school board.

English as a  
subject of  
instruction

**27.—(1)** English shall be a subject of instruction in grades 5, 6, 7 and 8 in every school or class operated by the French-language Board.

Idem

(2) English may be a subject of instruction in any grade other than grades 5, 6, 7 and 8 in a school or class operated by the French-language Board.

## PART VII

### BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS, VACANCIES

Employees  
disqualified

**28.** An employee of the French-language Board is not eligible to be elected a member of the public sector or the Roman Catholic sector or entitled to sit or vote on either of them.

Qualifications  
of members  
of sectors

**29.—(1)** A person is qualified to be elected as a member of the Roman Catholic sector or of the public sector if the person is an elector for that sector and resides in the Region.

Idem

(2) A person who is an elector for a sector in respect of an area for which one or more members of the sector are to be elected is qualified to be elected as a member of that sector for any area in the Region if the person is otherwise qualified under this section.

Members  
eligible for  
re-election

(3) A member of a sector is eligible for re-election if otherwise qualified.

Dis-  
qualification  
R.S.O. 1980,  
c. 129

(4) Subsection 196 (3) of the *Education Act* applies with necessary modifications to the French-language Board.

Qualification  
to act as  
member

(5) A person is qualified to act as a member of a sector during the term for which he or she was elected so long as the person continues to hold the qualifications required for election as a member of the sector and does not become disqualified.

- (5) L'article 185 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils. Déclaration et serment L.R.O. 1980, chap. 129
- 26** Sous réserve de la présente loi, la section catholique possède tous les pouvoirs et accomplit toutes les fonctions que la *Loi sur l'éducation* confie ou impose à un conseil d'écoles secondaires. Section catholique, enseignement secondaire
- 27** (1) Dans toutes les écoles ou les classes qui relèvent du Conseil de langue française, l'anglais est une matière d'enseignement en 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années. Anglais en tant que matière d'enseignement
- (2) Dans une école ou une classe qui relève du Conseil de langue française, l'anglais peut être une matière d'enseignement dans les années autres que les 5<sup>e</sup>, 6<sup>e</sup>, 7<sup>e</sup> et 8<sup>e</sup> années. Idem

## PARTIE VII

### MEMBRES DU CONSEIL—ÉLIGIBILITÉ, DÉMISSIONS ET VACANCES

- 28** Quiconque est employé par le Conseil de langue française ne peut pas être membre de la section publique ou de la section catholique. Il ne peut pas siéger au sein de l'une ou l'autre des sections, ni y voter. Employés inéligibles
- 29** (1) Une personne est éligible comme membre de la section catholique ou de la section publique si elle est électeur de cette section et qu'elle réside dans la Région. Conditions d'éligibilité des membres des sections
- (2) Quiconque est électeur d'une section en ce qui concerne un secteur pour lequel un ou plusieurs membres d'une section doivent être élus est éligible comme membre de cette section dans un secteur quelconque de la Région s'il satisfait aux autres conditions prévues par le présent article. Idem
- (3) Un membre d'une section est rééligible s'il satisfait aux autres conditions d'éligibilité. Membres rééligibles
- (4) Le paragraphe 196 (3) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Inéligibilité L.R.O. 1980, chap. 129
- (5) Une personne peut agir à titre de membre d'une section pour la durée de son mandat tant qu'elle satisfait aux conditions d'éligibilité à titre de membre de la section et qu'elle n'est pas frappée d'incapacité. Conditions d'éligibilité pour agir à titre de membre

Idem

(6) A person is qualified to act as a member of the full board if the person is qualified to act as a member of the sector to which the person is elected.

Person not to be candidate for more than one seat

(7) Subsection 196 (5) of the *Education Act* applies with necessary modifications to the French-language Board.

Members remaining in office, resignations

**30.**—(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, at the first regular meeting of the sector after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the sector.

Idem

(2) If the office of a member of a sector becomes vacant and the remaining members do not constitute a majority of the members elected to the sector, a new election shall be held to fill the vacancy or vacancies.

Notice

(3) The secretary of the sector shall send a notice to the clerk of the relevant area municipality if an election is required under subsection (2).

Term of office

(4) A member of a sector appointed or elected under this section shall hold office for the remainder of the term of office of the membership of the sector.

If election held to fill vacancy

**31.**—(1) Despite subsection 30 (1), if a vacancy occurs in a sector on or before the 31st day of March of an election year, the sector may, by resolution, require that an election be held to fill the vacancy.

Idem

(2) If a sector requires an election to be held, the secretary of the sector shall forthwith send to the clerk of the appropriate area municipality a certified copy of the resolution.

Idem  
R.S.O. 1980,  
c. 308

(3) The provisions of the *Municipal Elections Act* that pertain to an election to fill a vacancy apply to an election under this section.

Vacancy near time of regular election

**32.** Section 202 of the *Education Act* applies with necessary modifications to the French-language Board.

R.S.O. 1980,  
c. 129

Seat vacated by conviction

**33.** Section 206 of the *Education Act* applies with necessary modifications to the French-language Board.



(6) Une personne peut agir à titre de membre du conseil plénier si elle peut agir à titre de membre de la section dans laquelle elle est élue. Idem

(7) Le paragraphe 196 (5) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Interdiction de se porter candidat à plusieurs postes

**30** (1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, lors de la première réunion ordinaire de la section tenue après que le poste est devenu vacant, une personne qui est éligible comme membre de la section. Membres qui demeurent en fonction, démissions

(2) Si le poste d'un membre d'une section devient vacant et que le reste des membres ne constituent pas la majorité des membres élus, une nouvelle élection a lieu pour combler le ou les postes vacants. Idem

(3) Le secrétaire de la section envoie un avis au secrétaire de la municipalité de secteur intéressée si une élection est nécessaire aux termes du paragraphe (2). Avis

(4) Le membre d'une section nommé ou élu en vertu du présent article demeure en fonction jusqu'à l'expiration du mandat des membres de la section. Mandat

**31** (1) Malgré le paragraphe 30 (1), si une vacance survient au sein d'une section au plus tard le 31 mars d'une année d'élection, la section peut, par voie de résolution, exiger la tenue d'une élection pour combler le poste vacant. Élection en vue de combler un poste vacant

(2) Si une section exige la tenue d'une élection, le secrétaire de la section envoie sans délai au secrétaire de la municipalité de secteur intéressée une copie certifiée conforme de la résolution. Idem

(3) Les dispositions de la *Loi sur les élections municipales* qui concernent les élections tenues pour combler les postes vacants s'appliquent à une élection tenue en vertu du présent article. Idem  
L.R.O. 1980, chap. 308

**32** L'article 202 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Vacance peu avant ou peu après une élection ordinaire  
L.R.O. 1980, chap. 129

**33** L'article 206 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Vacance d'un poste à la suite d'une condamnation

Elections

**34.** The election of members of a sector shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

### PART VIII

#### COMPOSITION OF FRENCH-LANGUAGE BOARD

Application  
of trustee  
representation  
provisions  
R.S.O. 1980,  
c. 129

**35.**—(1) Subject to subsections (2), (3) and (4), Part VII-A of the *Education Act* applies with necessary modifications to the French-language Board as if,

- (a) the French-language Board were a divisional board that is required to establish an English-language section and that is exercising jurisdiction in an area where there is no coterminous Roman Catholic separate school board that is a Roman Catholic school board; and
- (b) a supporter or elector of the public sector were a public school supporter or public school elector, as the case may be, and a supporter or elector of the Roman Catholic sector were a separate school supporter or separate school elector, as the case may be.

Interpretation

(2) For purposes of applying rule 6 of subsection 206a (6), subsections 206a (13), (14), (17) and (21) and section 206d of the *Education Act*, a reference in that rule, those subsections and that section to a board shall be deemed to be a reference to a sector.

Idem

(3) For purposes of applying rule 11 of subsection 206a (8) of the *Education Act*, a reference in that rule to the number three shall be deemed to be a reference to the number eight and for the purposes of applying rule 13 of subsection 206a (8) of the *Education Act*, a reference in that rule to the number one shall be deemed to be a reference to the number eight.

Idem

(4) For purposes of applying the provisions of the regulation made under clauses 10 (10) (a) and (b) of the *Education Act*, a reference in those provisions to the director of education of a board and to the secretary of the board shall be deemed to be a reference to the director of education and the secretary of the public sector in respect of a determination or distribution for the public sector and to the director of education and the secretary of the Roman Catholic sector in respect of a determination or distribution for the Roman Catholic sector.

**34** L'élection des membres d'une section est tenue par les mêmes fonctionnaires et de la même façon que les élections des membres du conseil d'une municipalité. Élections

## PARTIE VIII

### COMPOSITION DU CONSEIL DE LANGUE FRANÇAISE

**35** (1) Sous réserve des paragraphes (2), (3) et (4), la partie VII-A de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si :

Application des dispositions relatives à la représentation des conseillers scolaires  
L.R.O. 1980, chap. 129

- a) d'une part, le Conseil de langue française était un conseil de division scolaire qui est tenu d'établir une section de langue anglaise et qui exerce sa compétence dans un secteur où il n'y a pas de conseil d'écoles séparées catholiques coïncident qui soit un conseil d'écoles catholiques;
- b) d'autre part, un contribuable ou un électeur de la section publique était un contribuable des écoles publiques ou un électeur des écoles publiques, selon le cas, et un contribuable ou un électeur de la section catholique était un contribuable des écoles séparées ou un électeur des écoles séparées, selon le cas.

(2) Pour l'application de la règle 6 du paragraphe 206a (6), des paragraphes 206a (13), (14), (17) et (21), et de l'article 206d de la *Loi sur l'éducation*, une mention d'un conseil, dans cette règle, ces paragraphes et cet article, est réputée une mention d'un secteur. Interprétation

(3) Pour l'application de la règle 11 du paragraphe 206a (8) de la *Loi sur l'éducation*, une mention du nombre trois, dans cette règle, est réputée une mention du nombre huit, et pour l'application de la règle 13 du paragraphe 206a (8) de la *Loi sur l'éducation*, une mention du nombre un, dans cette règle, est réputée une mention du nombre huit. Idem

(4) Pour l'application des dispositions du règlement pris en application des alinéas 10 (10) a) et b) de la *Loi sur l'éducation*, une mention du directeur de l'éducation d'un conseil et du secrétaire du conseil, dans ces dispositions, est réputée une mention du directeur de l'éducation et du secrétaire de la section publique à l'égard d'une décision ou d'une répartition pour la section publique, et une mention du directeur de l'éducation et du secrétaire de la section catholique à l'égard d'une décision ou d'une répartition pour la section catholique. Idem

**36** (1) Dans le présent article, «Comité de planification» s'entend du Comité de planification de l'enseignement en Définition  
«Planning  
Committee»

Definition  
"Comité de  
planification"

**36.—(1)** In this section, "Planning Committee" means the Ottawa-Carleton French-Language Education Planning Committee established by the Minister and constituted by Order in Council 229/88.

Transitional

(2) For the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, if the number of members representing a sector for an area municipality is two or more, the Minister may by order divide the municipality into two or more electoral areas and the electoral areas shall be deemed to be electoral areas established prior to the 2nd day of February, 1988, by the council of the municipality at the request of the sector.

Idem

(3) The Minister, on the recommendation of the Planning Committee, may, by order, increase or decrease the number of members determined to be elected for a sector under rules 1 to 10 of subsection 206a (8) of the *Education Act* by one or two members for the purposes of the regular election to be held in 1988 under the *Municipal Elections Act*.

R.S.O. 1980,  
c. 129

R.S.O. 1980,  
c. 308

Idem

(4) For purposes of the regular election to be held in 1988 under the *Municipal Elections Act*, the Minister may, by order, exercise the same power as a sector could have exercised under subsections 206a (13) and (14) of the *Education Act* if the sector had been in existence on the day this Act comes into force, and an order of the Minister under this section shall be deemed to be a resolution of the sector to which it applies passed under subsection 206a (13) or (14) of the *Education Act*, as the case may be.

Idem

(5) For the regular election to be held in 1988, if a calculation or a distribution or both are not made or an application is made under section 206c of the *Education Act* and the judge does not deal with it within the time required by subsection 206c (3) of the *Education Act*, the Minister shall make the calculation or distribution or both, as the case may be.

Idem

(6) Despite subsection 35 (4), for purposes of the regular election to be held in 1988 and the application of the provisions of the regulation made under clauses 10 (10) (a) and (b) of the *Education Act*, a reference in those provisions to the director of education of a board and to the secretary of the board shall be deemed to be a reference to the chairmen of the French-language education councils of The Ottawa Board of Education and The Carleton Board of Education in respect of a determination or distribution for the public sector and to the chairmen of the French-language education councils of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board in respect of a determination or distribution for the Roman Catholic sector.

langue française d'Ottawa-Carleton créé par le ministre et constitué par le décret 229/88.

(2) Aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour combler des postes vacants avant le 1<sup>er</sup> décembre 1991, si le nombre de membres représentant une section pour une municipalité de secteur est de deux ou plus, le ministre peut, par voie d'arrêté, diviser la municipalité en deux secteurs électoraux ou plus. Les secteurs électoraux sont réputés des secteurs électoraux établis avant le 2 février 1988 par le conseil de la municipalité à la demande de la section.

Disposition  
transitoire

(3) À la recommandation du Comité de planification, le ministre peut, par voie d'arrêté, augmenter ou diminuer d'un ou de deux le nombre de membres devant être élus pour une section aux termes des règles 1 à 10 du paragraphe 206a (8) de la *Loi sur l'éducation* aux fins de l'élection ordinaire qui doit se tenir en 1988 aux termes de la *Loi sur les élections municipales*.

Idem

L.R.O. 1980,  
chap. 129  
L.R.O. 1980,  
chap. 308

(4) Aux fins de l'élection ordinaire qui doit se tenir en 1988 aux termes de la *Loi sur les élections municipales*, le ministre peut, par voie d'arrêté, exercer le même pouvoir qu'aurait pu exercer une section en vertu des paragraphes 206a (13) et (14) de la *Loi sur l'éducation* si cette section avait existé le jour de l'entrée en vigueur de la présente loi. Un arrêté que prend le ministre en vertu du présent article est réputé une résolution de la section à laquelle il s'applique, adoptée aux termes du paragraphe 206a (13) ou (14) de la *Loi sur l'éducation*, selon le cas.

Idem

(5) Aux fins de l'élection ordinaire qui doit se tenir en 1988, si un calcul ou une répartition, ou les deux, ne sont pas faits, ou qu'une requête est présentée, en vertu de l'article 206c de la *Loi sur l'éducation*, à un juge qui ne donne pas suite à celle-ci dans le délai imparti au paragraphe 206c (3) de la *Loi sur l'éducation*, le ministre fait le calcul ou la répartition, ou les deux, selon le cas.

Idem

(6) Malgré le paragraphe 35 (4), aux fins de l'élection ordinaire qui doit se tenir en 1988 et pour l'application des dispositions du règlement pris en application des alinéas 10 (10) a) et b) de la *Loi sur l'éducation*, une mention du directeur de l'éducation d'un conseil et du secrétaire du conseil, dans ces dispositions, est réputée une mention des présidents des conseils de l'enseignement en langue française du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton à l'égard d'une décision ou d'une répartition pour la section publique, et une mention des présidents des conseils de l'enseignement en langue française du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton à l'égard d'une décision ou d'une répartition pour la section catholique.

Idem

Transition  
1988, c. 27

(7) Subsection 41 (1) of the *Education Statute Law Amendment Act, 1988* applies with necessary modifications in respect of the French-language Board.

## PART IX

### FINANCE

Appointment  
and dismissal  
of auditor

**37.**—(1) There shall be one auditor for the French-language Board and the auditor shall hold office during good behaviour and be removable for cause.

Qualifications  
R.S.O. 1980,  
c. 303

(2) The auditor shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

Powers and  
duties of  
auditor

R.S.O. 1980,  
c. 129

(3) Subsections 207 (2) to (6) of the *Education Act* apply with necessary modifications to the auditor.

Filing of  
financial  
statements

(4) The treasurer in every year shall prepare the financial statements of the public sector and the Roman Catholic sector and, upon receiving the auditor's report on them, shall forthwith submit two copies of the financial statements together with a copy of the auditor's report to the Ministry.

Idem

(5) A financial statement for a sector shall include for each classification of expenditure the expenses of the full board allocated to the sector.

Publication  
of financial  
statements

(6) The treasurer of the French-language Board in every year shall, within one month after receiving the auditor's report on the financial statements of the sectors for the preceding year, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements for that ratepayer's sector for the preceding year in such form as the Minister may require, together with a copy of the report of the auditor.

Idem

(7) If in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy of the report under subsection (6), cause to be included in such notice the copy and the report.

Debentures

**38.**—(1) Section 208 of the *Education Act* applies with necessary modifications to the public sector as if it were a divisional board.

(7) Le paragraphe 41 (1) de la *Loi de 1988 modifiant des lois concernant l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Disposition transitoire 1988, chap. 27

## PARTIE IX

### FINANCES

**37** (1) Le Conseil de langue française a un vérificateur qui occupe sa charge à titre inamovible, mais qui peut faire l'objet d'une destitution motivée. Nomination et destitution du vérificateur

(2) Le vérificateur est une personne qui détient un permis pour exercer la charge de vérificateur municipal en vertu de la *Loi sur les affaires municipales*. Qualités requises  
L.R.O. 1980, chap. 303

(3) Les paragraphes 207 (2) à (6) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au vérificateur. Pouvoirs et fonctions du vérificateur  
L.R.O. 1980, chap. 129

(4) Chaque année, le trésorier prépare les états financiers de la section publique et de la section catholique. À la réception du rapport du vérificateur à ce sujet, il remet sans délai au ministère deux copies des états financiers ainsi qu'une copie du rapport du vérificateur. Dépôt des états financiers

(5) Les états financiers d'une section comprennent, pour chaque catégorie de dépenses, les frais du conseil plénier affectés à la section. Idem

(6) Chaque année, dans un délai d'un mois à compter de la réception du rapport du vérificateur sur les états financiers des sections pour l'année précédente, le trésorier du Conseil de langue française fait publier, envoyer par la poste ou remettre à chaque contribuable une copie des états financiers de sa section pour l'année précédente selon la forme que peut exiger le ministre, ainsi qu'une copie du rapport du vérificateur. Publication des états financiers

(7) Si, au cours d'une année, un avis d'impôt est envoyé à chaque contribuable avant le 30 juin, le trésorier peut, au lieu de publier, d'envoyer par la poste ou de remettre une copie du rapport comme le prévoit le paragraphe (6), faire annexer à cet avis la copie et le rapport. Idem

**38** (1) L'article 208 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire. Débentures

(2) L'article 134 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section catholique. Droit d'emprunt

Borrowing  
powers

(2) Section 134 of the *Education Act* applies with necessary modifications to the Roman Catholic sector.

Estimates,  
full board

**39.**—(1) The full board in each year shall prepare and adopt estimates of all sums required in its area of jurisdiction during the year for elementary school purposes and for secondary school purposes respectively, and such estimates,

- (a) shall set forth its estimated expenditures including debt charges payable on its behalf; and
- (b) may provide for expenditures for permanent improvements of premises occupied by it.

Full board's  
estimates  
allocated to  
sectors

(2) The full board shall allocate its estimates to the public sector and to the Roman Catholic sector in the ratio that the average daily enrolment of pupils in the schools of the relevant sector is to the average daily enrolment of pupils in all of the schools of the French-language Board.

Idem

(3) Despite subsection (2), the full board shall allocate its estimates in respect of maintaining a sector's buildings and premises and furniture and equipment to that sector.

Idem

(4) The full board shall allocate its estimates to the sectors separately for elementary and secondary school purposes.

Full board's  
estimates  
forwarded to  
sectors

(5) The full board shall submit its estimates, together with the relevant allocations under subsections (2) and (3), to the sectors on or before the 15th day of February in each year.

Estimates,  
sectors  
R.S.O. 1980,  
c. 129

(6) Subsection 209 (1) of the *Education Act* applies with necessary modifications to the public sector in its area of jurisdiction as if it were a divisional board.

Estimates,  
Roman  
Catholic  
sector

(7) Sections 127 and 136k of the *Education Act* apply with necessary modifications to the Roman Catholic sector.

Levying of  
rates

(8) Sections 128 and 130 to 133 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector for elementary and secondary school purposes as if they were both separate school boards.



**39** (1) Chaque année, le conseil plénier prépare et adopte les prévisions des sommes nécessaires dans son domaine de compétence au cours de l'année pour les besoins des écoles élémentaires et des écoles secondaires respectivement. Ces prévisions :

Prévisions,  
conseil  
plénier

- a) précisent les dépenses prévues pour le conseil plénier, y compris le service de la dette pour son compte;
- b) peuvent couvrir les dépenses en vue des améliorations permanentes des lieux que le conseil plénier occupe.

(2) Le conseil plénier affecte ses prévisions à la section publique et à la section catholique dans le rapport qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Prévisions du  
conseil plénier  
affectées aux  
sections

(3) Malgré le paragraphe (2), le conseil plénier affecte ses prévisions à l'égard de l'entretien des bâtiments et lieux, de l'ameublement et de l'équipement d'une section à cette section.

Idem

(4) Le conseil plénier affecte ses prévisions aux sections séparément aux fins des écoles élémentaires et secondaires.

Idem

(5) Au plus tard le 15 février de chaque année, le conseil plénier présente aux sections ses prévisions, ainsi que les affectations appropriées visées aux paragraphes (2) et (3).

Prévisions du  
conseil plénier  
présentées aux  
sections

(6) Le paragraphe 209 (1) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section publique dans son domaine de compétence comme s'il s'agissait d'un conseil de division scolaire.

Prévisions,  
sections  
L.R.O. 1980  
chap. 129

(7) Les articles 127 et 136k de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section catholique.

Prévisions,  
section  
catholique

(8) Les articles 128 et 130 à 133 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique aux fins des écoles élémentaires et secondaires, comme si les deux sections étaient des conseils d'écoles séparées.

Prélèvements  
des impôts

(9) Pour l'application de l'article 130 de la *Loi sur l'éducation*, les sections utilisent les facteurs fixés par le ministre en 1989.

Idem

- Idem (9) For the purposes of section 130 of the *Education Act* the sectors shall use the factors determined by the Minister in 1989.
- Idem (10) A determination of the Minister under subsection (9) is not a regulation within the meaning of the *Regulations Act*.  
R.S.O. 1980, c. 446
- Estimates of full board included (11) The estimates of a sector shall include the proportion of the estimates of the full board as allocated to it.
- Statement of amounts to be raised (12) The treasurer on behalf of the public sector shall submit to the council of each area municipality on or before the 1st day of March in each year,
- (a) a statement indicating the amount of its estimates for elementary school purposes and for secondary school purposes to be raised by each council; and
  - (b) a requisition of the amount of the estimates for elementary school purposes and for secondary school purposes required to be raised by the council.
- Provisions concerning estimates (13) Subsections 209 (2) to (9) of the *Education Act* apply with necessary modifications to the public sector as if it were a divisional board.  
R.S.O. 1980, c. 129
- Money not spent because of strike **40.**—(1) Sections 210 and 212 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector.
- Idem (2) A reserve of a sector under subsection 210 (2) of the *Education Act* shall include the proportion of any amount allocated to it in relation to the unpaid salaries and wages of employees of the full board.
- Rates, payments to boards **41.**—(1) Section 215 of the *Education Act* applies with necessary modifications to the French-language Board as if the public sector and the Roman Catholic sector were divisional boards and the Region were a school division.
- First payment (2) The amounts to be used for the calculation under paragraph 1 of subsection 215 (2) of the *Education Act* on the 31st day of March, 1989 shall be determined by the Minister.
- Application (3) A determination of the Minister under subsection (2) is not a regulation within the meaning of the *Regulations Act*.
- Tax notices, accounting for money **42.**—(1) Section 216 of the *Education Act* applies with necessary modifications in respect of the French-language Board.

- (10) La décision du ministre visée au paragraphe (9) n'est pas un règlement au sens de la *Loi sur les règlements*. Idem  
L.R.O. 1980,  
chap. 446
- (11) Les prévisions d'une section indiquent la proportion des prévisions du conseil plénier qui lui ont été affectées. Indication des  
prévisions du  
conseil plénier
- (12) Au plus tard le 1<sup>er</sup> mars de chaque année, le trésorier, au nom de la section publique, présente au conseil de chaque municipalité de secteur :
- a) un état indiquant le montant de ses prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que chaque conseil doit recueillir;
  - b) une demande du montant des prévisions aux fins des écoles élémentaires et aux fins des écoles secondaires que le conseil doit recueillir.
- (13) Les paragraphes 209 (2) à (9) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique comme s'il s'agissait d'un conseil de division scolaire. Dispositions  
relatives aux  
prévisions  
L.R.O. 1980,  
chap. 129
- 40** (1) Les articles 210 et 212 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique. Fonds non  
affectés en  
raison de  
grève
- (2) La réserve d'une section visée au paragraphe 210 (2) de la *Loi sur l'éducation* comprend la proportion des sommes qui lui sont affectées relativement aux salaires et à la rémunération impayés des employés du conseil plénier. Idem
- 41** (1) L'article 215 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française comme si la section publique et la section catholique étaient des conseils de division scolaire et que la Région était une division scolaire. Versement  
des impôts  
aux conseils
- (2) Le ministre décide des montants à utiliser pour le calcul effectué en vertu de la disposition 1 du paragraphe 215 (2) de la *Loi sur l'éducation* le 31 mars 1989. Premier  
versement
- (3) La décision du ministre visée au paragraphe (2) ne constitue pas un règlement au sens de la *Loi sur les règlements*. Champ d'ap-  
plication
- 42** (1) L'article 216 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard du Conseil de langue française. Avis d'impôt,  
reddition de  
comptes

Current borrowing, when fees payable, reduction of requisition

(2) Sections 217, 218 and 219 of the *Education Act* apply with necessary modifications to the public sector and the Roman Catholic sector as if both of them were boards.

Payment of expenses of full board

(3) A sector shall make funds available to provide for payment of the proportion of the expenses of the full board allocated to it.

Borrowing by one sector from another

(4) If money is borrowed from public sector funds for Roman Catholic sector purposes or from Roman Catholic sector funds for public sector purposes, the borrowing sector shall pay interest to the fund from which the money is borrowed at a rate not less than that being earned by the fund at the date of borrowing.

Data furnished, determination of rates  
R.S.O. 1980, c. 129

**43.**—(1) Sections 220 and 221 and subsections 222 (1) and (2) of the *Education Act* apply with necessary modifications in respect of the public sector and the Roman Catholic sector as if both of them were boards.

Idem

(2) Each sector shall determine the rates to be levied for its purposes.

Assessments for school purposes

(3) The clerk of each area municipality shall prepare the following particulars:

1. The commercial assessment for the purposes of the public sector.
2. The residential and farm assessment for the purposes of the public sector.
3. The commercial assessment for the purposes of the Roman Catholic sector.
4. The residential and farm assessment for the purposes of the Roman Catholic sector.

Levying of school rates

**44.** The council of every area municipality shall levy or cause to be levied on the whole of the assessment for real property and business assessment for the purposes of the public sector and the Roman Catholic sector, according to the last revised assessment roll, the rates determined for each sector.

Share of licence fees for trailers  
R.S.O. 1980, c. 129

**45.** Section 227 of the *Education Act*, which applies in respect of separate school support, also applies in the Region with necessary modifications in respect of support of the public sector and the Roman Catholic sector.

(2) Les articles 217, 218 et 219 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la section publique et à la section catholique comme si elles étaient toutes les deux des conseils.

Emprunt courant, droits payables, réduction des demandes

(3) La section prévoit des fonds pour le paiement de la partie des dépenses du conseil plénier qui lui sont affectées.

Paiement des dépenses du conseil plénier

(4) S'il y a emprunt de sommes provenant d'un fonds de la section publique aux fins de la section catholique ou de sommes provenant d'un fonds de la section catholique aux fins de la section publique, la section qui emprunte paie des intérêts au fonds d'où proviennent les sommes empruntées à un taux qui n'est pas inférieur à celui dont bénéficie le fonds à la date de l'emprunt.

Emprunt à une section par l'autre

**43** (1) Les articles 220 et 221 et les paragraphes 222 (1) et (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'égard de la section publique et de la section catholique comme si elles étaient toutes les deux des conseils.

Renseignements fournis, calcul des impôts  
L.R.O. 1980, chap. 129

(2) Chaque section fixe les impôts qui sont prélevés à ses fins.

Idem

(3) Le secrétaire de chaque municipalité de secteur prépare ce qui suit :

Évaluations aux fins scolaires

1. L'évaluation des industries et des commerces aux fins de la section publique.
2. L'évaluation résidentielle et agricole aux fins de la section publique.
3. L'évaluation des industries et des commerces aux fins de la section catholique.
4. L'évaluation résidentielle et agricole aux fins de la section catholique.

**44** Le conseil de chaque municipalité de secteur prélève ou fait prélever sur la totalité de l'évaluation foncière et de l'évaluation commerciale aux fins de la section publique et de la section catholique, d'après le dernier rôle d'évaluation révisé, les impôts établis pour chaque section.

Prélèvement des impôts

**45** L'article 227 de la *Loi sur l'éducation*, qui s'applique à l'égard du soutien des écoles séparées, s'applique également, avec les adaptations nécessaires, à l'égard du soutien de la section publique et de la section catholique.

Partie des droits sur les roulettes  
L.R.O. 1980, chap. 129

Share of  
legislative  
grants  
R.S.O. 1980,  
c. 129

**46.**—(1) On and after the 1st day of January, 1989, the public sector and the Roman Catholic sector shall each share in the legislative grants under the *Education Act* in the same way as a public board.

Share of  
municipal  
grants

(2) On and after the 1st day of January, 1989, subsection 135 (2) of the *Education Act* applies with necessary modifications in respect of the schools governed by the public sector and the schools governed by the Roman Catholic sector in the same way that it applies to separate schools.

Special  
temporary  
grants

(3) The Lieutenant Governor in Council may provide for the payment to the public sector, to the Roman Catholic sector or to both of such special temporary grants as the Lieutenant Governor in Council considers appropriate.

Idem

(4) A grant under subsection (3) shall be paid out of money appropriated by the Legislature for educational purposes.

## PART X

### TEACHERS AND SUPERVISORY OFFICERS

Teachers

**47.** Part IX of the *Education Act* applies with necessary modifications to the French-language Board.

Qualifications  
of  
supervisory  
officers

**48.** Section 249 of the *Education Act* applies with necessary modifications to the French-language Board.

Director of  
education for  
public sector

**49.**—(1) The public sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Director of  
education for  
Roman  
Catholic  
sector

(2) The Roman Catholic sector shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its director of education.

Duties of  
directors of  
education

(3) The director of education for a sector shall be responsible to that sector for the development, implementation, operation and supervision of education programs in the French-language instructional units operated by that sector.

Chief  
executive  
officer of  
sectors

(4) Section 253 of the *Education Act* applies with necessary modifications to the directors of education of the sectors.

**46** (1) À compter du 1<sup>er</sup> janvier 1989, la section publique et la section catholique reçoivent chacune une part des subventions générales accordées en vertu de la *Loi sur l'éducation* de la même façon qu'un conseil public.

Part des subventions générales  
L.R.O. 1980, chap. 129

(2) À compter du 1<sup>er</sup> janvier 1989, le paragraphe 135 (2) de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à l'égard des écoles gérées par la section publique et des écoles gérées par la section catholique de la même façon qu'il s'applique aux écoles séparées.

Part des subventions municipales

(3) Le lieutenant-gouverneur en conseil peut prévoir le paiement à la section publique ou à la section catholique, ou aux deux, des subventions spéciales et temporaires qu'il juge opportunes.

Subventions spéciales et temporaires

(4) Les subventions accordées en vertu du paragraphe (3) sont prélevées sur les sommes affectées par la Législature aux fins de l'éducation.

Idem

## PARTIE X

### ENSEIGNANTS ET AGENTS DE SUPERVISION

**47** La partie IX de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Enseignants

**48** L'article 249 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française.

Qualification requise des agents de supervision

**49** (1) La section publique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur de l'éducation pour la section publique

(2) La section catholique nomme à titre de directeur de l'éducation une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*.

Directeur de l'éducation pour la section catholique

(3) Le directeur de l'éducation d'une section est responsable, devant cette section, de l'élaboration, de la mise en oeuvre, de l'application et de la supervision des programmes d'éducation dans les modules scolaires de langue française qui relèvent de cette section.

Fonctions des directeurs de l'éducation

(4) L'article 253 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, aux directeurs de l'éducation des sections.

Chef de service administratif des sections

Executive director of full board

**50.**—(1) The full board shall appoint a person who holds the qualifications required under the *Education Act* for a supervisory officer to be its executive director.

Idem

(2) The executive director is the chief executive officer of the full board.

Application of certain sections of R.S.O. 1980, c. 129

(3) Subsections 253 (2) and (3) of the *Education Act* apply with necessary modifications to the executive director of the full board.

Appointment of supervisory officers

**51.**—(1) Sections 254 and 255 of the *Education Act* apply with necessary modifications to the French-language Board.

Duties of supervisory officers

(2) Section 256 of the *Education Act* applies with necessary modifications to the French-language Board.

Sharing supervisory officer

(3) Despite subsection 256 (4) of the *Education Act*, the Roman Catholic sector, the public sector and the full board or any two of them may enter into an agreement whereby one of them purchases the services of a supervisory officer of another of them.

Suspension or dismissal of supervisory officer

(4) Section 257 of the *Education Act* applies with necessary modifications to the French-language Board.

Abolition of position

(5) The French-language Board shall not abolish the position of a supervisory officer without the approval of the Minister.

## PART XI

### RESOLUTION OF DISPUTES

Notice requiring resolution

**52.**—(1) If this Act provides that the exercise of a power, duty or right requires approval by both sectors, and the sectors do not agree on how to exercise it, either sector may by notice in writing to the other sector and to the Commission require that the matter be resolved under this Part.

Idem

(2) If this Act provides that a matter is to be resolved by agreement between the French-language Board or one of its sectors and one or more English-language boards and the time specified for making that agreement has elapsed without those parties reaching an agreement, the French-language Board shall by notice in writing to the other party or parties and to the Commission require that the matter be resolved under this Part.



- 50** (1) Le conseil plénier nomme à titre de directeur général une personne qui possède la qualification requise d'un agent de supervision aux termes de la *Loi sur l'éducation*. Directeur général du conseil plénier
- (2) Le directeur général est le chef de service administratif du conseil plénier. Idem
- (3) Les paragraphes 253 (2) et (3) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au directeur général du conseil plénier. Champ d'application de certaines dispositions du chap. 129 des L.R.O. de 1980
- 51** (1) Les articles 254 et 255 de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Nomination des agents de supervision
- (2) L'article 256 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Fonctions des agents de supervision
- (3) Malgré le paragraphe 256 (4) de la *Loi sur l'éducation*, la section catholique, la section publique et le conseil plénier, ou deux d'entre eux, peuvent conclure une entente selon laquelle l'un d'eux achète les services d'un agent de supervision d'un autre d'entre eux. Partage d'un agent de supervision
- (4) L'article 257 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Suspension ou congédiement d'un agent de supervision
- (5) Le Conseil de langue française ne doit pas abolir le poste d'un agent de supervision sans l'approbation du ministre. Abolition de poste

## PARTIE XI

### RÉSOLUTION DES CONFLITS

- 52** (1) Si la présente loi prévoit que l'exercice d'un pouvoir, d'une fonction ou d'un droit nécessite l'approbation des deux sections et que les sections ne s'entendent pas quant à l'exercice de ce pouvoir, de cette fonction ou de ce droit, l'une ou l'autre des sections peut, en remettant un avis écrit à l'autre section et à la Commission, demander que la question soit résolue en vertu de la présente partie. Avis de demande de résolution
- (2) Si la présente loi prévoit qu'une question doit être résolue au moyen d'une entente entre le Conseil de langue française ou une de ses sections et un ou plusieurs conseils de langue anglaise, et que le délai imparti pour conclure cette entente a expiré sans que ces parties soient arrivées à une entente, le Conseil de langue française remet un avis écrit à l'autre ou aux autres parties et à la Commission pour demander que la question soit résolue en vertu de la présente partie. Idem

Panel for  
disputes  
between  
sectors

**53.**—(1) If a matter is referred to the Commission under subsection 52 (1), the chairman of the Commission shall appoint a panel composed of three of its French-speaking members to act for it in respect of that matter and, in that case, references to the Commission in sections 54 to 58 shall be deemed to be references to the panel.

Idem

(2) The chairman shall appoint one of the members of the panel to chair it.

Commission  
to handle  
other  
disputes

(3) The Commission shall act as a whole in respect of a matter referred to it under subsection 52 (2).

Quorum

(4) If the Commission acts as a whole, a quorum consists of seven members of whom at least three shall be French-speaking and three English-speaking.

Person to  
chair  
Commission

(5) The chairman or a person designated by the chairman shall chair the Commission when it acts as a whole.

Parties  
appoint  
mediator

**54.**—(1) Forthwith after notice is given under section 52, the parties shall appoint a mediator to resolve their dispute and shall notify the Commission of the name and address of the mediator.

Referral to  
Commission

(2) If, after fourteen days after a party receives notice under section 52, the parties are unable to agree on the appointment of a mediator, they shall refer the matter to the Commission for appointment of a mediator.

Commission  
appoints  
mediator

(3) The Commission shall appoint a mediator to resolve the dispute forthwith after the matter is referred to it.

Notice of  
appointment

(4) The Commission shall communicate the name and address of a mediator appointed under subsection (3) to the parties.

Remuner-  
ation

**55.**—(1) The parties shall pay the remuneration of the mediator in equal shares.

Idem

(2) A mediator appointed by the parties shall be paid such remuneration as is agreed upon between the mediator and the parties.

Idem

(3) A mediator appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not  
eligible as  
mediator

(4) The following persons shall not be appointed as a mediator:

**53** (1) Si une question est renvoyée à la Commission en vertu du paragraphe 52 (1), le président de la Commission constitue un comité composé de trois des membres francophones de la Commission qui traite de la question au nom de celle-ci, et, dans ce cas, les renvois à la Commission aux articles 54 à 58 sont réputés des renvois au comité.

Comité chargé de résoudre les conflits

(2) Le président nomme l'un des membres du comité à la présidence.

Idem

(3) La Commission entière traite des questions qui lui sont renvoyées en vertu du paragraphe 52 (2).

La Commission traite des autres conflits

(4) Si la Commission entière traite d'un conflit, le quorum est de sept membres, dont au moins trois francophones et au moins trois anglophones.

Quorum

(5) Lorsque la Commission entière traite d'un conflit, le président ou une personne qu'il désigne assume la présidence de la Commission.

Personne qui assume la présidence

**54** (1) Immédiatement après la remise de l'avis prévu à l'article 52, les parties nomment un médiateur pour résoudre leur conflit et avisent la Commission du nom et de l'adresse du médiateur.

Nomination d'un médiateur par les parties

(2) Si, au bout de quatorze jours après qu'une partie reçoit l'avis prévu à l'article 52, les parties n'arrivent pas à s'entendre sur la nomination d'un médiateur, elles renvoient la question à la Commission en vue de faire nommer un médiateur.

Renvoi à la Commission

(3) La Commission nomme un médiateur pour résoudre le conflit immédiatement après avoir été saisie de la question.

Nomination d'un médiateur par la Commission

(4) La Commission communique aux parties le nom et l'adresse du médiateur nommé en vertu du paragraphe (3).

Avis de nomination

**55** (1) Les parties paient à parts égales la rémunération du médiateur.

Rémunération

(2) Le médiateur nommé par les parties reçoit la rémunération dont il convient avec les parties.

Idem

(3) Le médiateur nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil.

Idem

(4) Les personnes suivantes ne doivent pas être nommées médiateur :

Inadmissibilité aux fonctions de médiateur

1. A member of the Commission.
2. A member of the French-language Board or of an English-language board.
3. The spouse of a person mentioned in paragraph 1 or 2.

Duties of mediator

**56.**—(1) The mediator shall inquire into the matter referred for mediation, confer with the parties, endeavour to bring about an agreement and report to the parties and to the Commission concerning whether an agreement has been reached.

Time for mediation

(2) The mediator shall make the report under subsection (1) within twenty-one days after being appointed or within such longer period as the parties may agree or the Commission may approve.

Agreement

(3) If an agreement is reached, it shall be in writing and signed by all of the parties to it.

Arbitration board appointed by parties

**57.**—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are two parties to the dispute.

Appointment of two members of arbitration board

(2) Each party shall, within ten days of receiving the mediator's report, appoint a person to the arbitration board and notify the Commission of the appointment.

If party fails to appoint a person

(3) If one party fails to appoint a person within ten days of receiving the mediator's report, the other party shall forthwith notify the Commission of the fact, and the Commission shall appoint a person in the place of the first party.

Chair

(4) The two persons appointed to the arbitration board shall jointly appoint a third person to chair it and shall notify the Commission of the appointment.

Idem

(5) If the two persons appointed to the arbitration board do not appoint a third person within ten days of the appointment of the second one of them, the Commission shall appoint a third person to chair the arbitration board.

Remuneration

(6) The parties shall pay the remuneration of the members of the arbitration board in equal shares.

Idem

(7) A member appointed by a party shall be paid such remuneration as is agreed upon between them.

1. Un membre de la Commission.
2. Un membre du Conseil de langue française ou d'un conseil de langue anglaise.
3. Le conjoint d'une personne visée à la disposition 1 ou 2.

**56** (1) Le médiateur fait enquête sur la question soumise à sa médiation, s'entretient avec les parties, s'efforce de les faire arriver à une entente et présente aux parties et à la Commission un rapport indiquant si les parties sont arrivées à une entente.

Fonctions du médiateur

(2) Le médiateur présente le rapport prévu au paragraphe (1) dans les vingt et un jours qui suivent sa nomination ou dans un délai plus long dont les parties peuvent convenir ou que la Commission peut approuver.

Délai de médiation

(3) Si les parties arrivent à une entente, cette dernière est mise par écrit et signée par toutes les parties à cette entente.

Entente

**57** (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a deux parties au conflit.

Conseil d'arbitrage constitué par les parties

(2) Dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, chaque partie nomme une personne au conseil d'arbitrage et en avise la Commission.

Nomination de deux membres du conseil d'arbitrage

(3) Si une partie ne nomme personne dans les dix jours qui suivent la date où elle reçoit le rapport du médiateur, l'autre partie en avise la Commission sans délai et cette dernière nomme une personne à la place de la première partie.

Cas où une partie ne nomme personne

(4) Les deux personnes nommées au conseil d'arbitrage nomment ensemble une troisième personne à la présidence et en avisent la Commission.

Présidence

(5) Si les deux personnes nommées au conseil d'arbitrage ne nomment pas une troisième personne dans les dix jours de la nomination du deuxième d'entre eux, la Commission nomme une troisième personne à la présidence du conseil d'arbitrage.

Idem

(6) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage.

Rémunération

(7) Le membre nommé par une partie reçoit la rémunération dont ils conviennent entre eux.

Idem

- Idem (8) A member appointed by the other members shall be paid such remuneration as is agreed upon between him or her and the parties.
- Idem (9) A member appointed by the Commission shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- Duty of arbitration board (10) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of the appointment of the third person.
- Majority decision (11) The decision of a majority of the members of the arbitration board is the board's decision.
- Decision final (12) The arbitration board's decision is final and binding upon the parties.
- R.S.O. 1980, c. 25 does not apply (13) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.
- Arbitration board appointed by Lieutenant Governor in Council  
Commission to notify Lieutenant Governor in Council  
58.—(1) This section applies if the mediator's report indicates failure to bring about an agreement and there are more than two parties to the dispute.
- (2) If this section applies to a dispute, the Commission shall notify the Lieutenant Governor in Council of the fact as soon as possible.
- Appointment of arbitration board to resolve dispute (3) The Lieutenant Governor in Council shall appoint an arbitration board of one or three persons to resolve the dispute.
- Remuneration (4) The parties shall pay the remuneration of the members of the arbitration board in equal shares.
- Idem (5) The members of the arbitration board shall be paid such remuneration as the Lieutenant Governor in Council may determine.
- Duty of arbitration board (6) The arbitration board shall consider all pertinent aspects of the dispute and arrive at a decision within thirty days of being appointed.
- Majority decision (7) If the arbitration board consists of three persons, the decision of a majority of them is the board's decision.
- Decision final (8) The arbitration board's decision is final and binding upon the parties.

- (8) Le membre nommé par les autres membres reçoit la rémunération dont il convient avec les parties. Idem
- (9) Le membre nommé par la Commission reçoit la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem
- (10) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent la nomination de la troisième personne. Devoir du conseil d'arbitrage
- (11) La décision de la majorité des membres du conseil d'arbitrage est la décision du conseil. Décision majoritaire
- (12) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive
- (13) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article. Non-application du chap. 25 des L.R.O. de 1980
- 58** (1) Le présent article s'applique si le rapport du médiateur indique que les parties n'ont pas conclu d'entente et s'il y a plus de deux parties au conflit. Conseil d'arbitrage constitué par le lieutenant-gouverneur en conseil
- (2) Si le présent article s'applique à un conflit, la Commission en avise le lieutenant-gouverneur en conseil le plus tôt possible. La Commission avise le lieutenant-gouverneur en conseil
- (3) Le lieutenant-gouverneur en conseil constitue un conseil d'arbitrage composé d'une ou de trois personnes pour résoudre le conflit. Constitution d'un conseil d'arbitrage pour résoudre le conflit
- (4) Les parties paient à parts égales la rémunération des membres du conseil d'arbitrage. Rémunération
- (5) Les membres du conseil d'arbitrage reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil. Idem
- (6) Le conseil d'arbitrage examine tous les aspects pertinents du conflit et arrive à une décision dans les trente jours qui suivent sa constitution. Devoir du conseil d'arbitrage
- (7) Si le conseil d'arbitrage est composé de trois personnes, la décision de la majorité d'entre eux est la décision du conseil. Décision majoritaire
- (8) La décision du conseil d'arbitrage est définitive et lie les parties. Décision définitive

R.S.O. 1980,  
c. 25 does  
not apply

(9) The *Arbitrations Act* does not apply to arbitration boards appointed under this section.

Enforcement  
of decision

(10) A party to a dispute under this section between the French-language Board or one of its sectors and one or more English-language boards may cause a copy of the arbitration board's decision to be filed in the office of the Registrar of the Supreme Court, exclusive of the reasons therefor, and the decision shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such.

Idem

(11) A decision of the arbitration board in respect to a dispute between the public sector and the Roman Catholic sector shall be deemed to be a decision of the French-language Board.

Idem

(12) A party to a dispute under this section between the public sector and the Roman Catholic sector may cause a copy of the arbitration board's decision to be filed in the office of the Registrar of the Supreme Court, exclusive of the reasons therefor, and the decision shall be entered in the same way as a judgment of the Supreme Court and is enforceable as such against any member of either sector.

## PART XII

### TRANSFER OF BUILDINGS AND ASSETS TO FRENCH-LANGUAGE BOARD

Transfer of  
real property

**59.**—(1) Any real property of an English-language board that on the 31st day of January, 1988 was a school site used by French-language instructional units shall be transferred to the French-language Board on the 1st day of January, 1989.

Idem

(2) If a school site used by French-language instructional units of an English-language board on the 31st day of January, 1988 ceases to be so used on or before the 31st day of December, 1988 and a second school site is so used in its place, the French-language Board may require the second school site to be transferred to it under subsection (1) in the place of the first school site.

Idem

(3) Subject to subsection (2), if a school site was not used by French-language instructional units on the 31st day of January, 1988 but becomes so used on or before the 31st day of December, 1988, the school site shall be transferred to the French-language Board on the 1st day of January, 1989.

Transfer of  
personal  
property

(4) All of the personal property of an English-language board that was used at any time during the period from the



(9) La *Loi sur l'arbitrage* ne s'applique pas aux conseils d'arbitrage constitués en vertu du présent article.

Non-application du chap. 25 des L.R.O. de 1980

(10) Une partie à un conflit visé au présent article entre le Conseil de langue française ou une de ses sections, et un ou plusieurs conseils de langue anglaise peuvent faire déposer une copie de la décision du conseil d'arbitrage, à l'exclusion des motifs, au bureau de greffier de la Cour suprême. La décision est inscrite de la même façon qu'un jugement de la Cour suprême et est exécutoire à ce titre.

Exécution de la décision

(11) Une décision du conseil d'arbitrage à l'égard d'un conflit entre la section publique et la section catholique est réputée une décision du Conseil de langue française.

Idem

(12) Une partie à un conflit visé au présent article entre la section publique et la section catholique peut faire déposer une copie de la décision du conseil d'arbitrage, à l'exclusion des motifs, au bureau du greffier de la Cour suprême. La décision est inscrite de la même façon qu'un jugement de la Cour suprême et est exécutoire à ce titre contre tout membre de l'une ou l'autre des sections.

Idem

## PARTIE XII

### TRANSFERT DE BÂTIMENTS ET DE BIENS AU CONSEIL DE LANGUE FRANÇAISE

**59** (1) Les biens immeubles d'un conseil de langue anglaise qui, le 31 janvier 1988, constituaient des emplacements scolaires utilisés par des modules scolaires de langue française sont transférés au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Transfert de biens immeubles

(2) Si un emplacement scolaire utilisé par des modules scolaires de langue française d'un conseil de langue anglaise le 31 janvier 1988 cesse d'être ainsi utilisé le 31 décembre 1988 ou avant, et qu'un second emplacement scolaire est utilisé à sa place, le Conseil de langue française peut exiger que ce second emplacement lui soit transféré, aux termes du paragraphe (1), à la place du premier emplacement.

Idem

(3) Sous réserve du paragraphe (2), si un emplacement scolaire n'était pas utilisé par des modules scolaires de langue française le 31 janvier 1988, mais le devient au plus tard le 31 décembre 1988, l'emplacement scolaire est transféré au Conseil de langue française le 1<sup>er</sup> janvier 1989.

Idem

(4) Tous les biens meubles d'un conseil de langue anglaise qui étaient utilisés en tout temps entre le 31 janvier 1988 et le

Transfert de biens meubles

31st day of January, 1988 to the 31st day of December, 1988 on a school site that is to be transferred under this section shall be transferred to the French-language Board on the 1st day of January, 1989.

Debts re transferred property

(5) The French-language Board shall pay to the relevant English-language board on or before the due date all amounts of principal and interest becoming due upon any outstanding debts in respect of a school site transferred under this section from that English-language board to the French-language Board.

Transfer not a closing

(6) A transfer of a school site under this section is not a closing of a school.

Agreement

(7) Subsections (1) to (4) are subject to any agreement concerning the transfer of school sites and the personal property on them,

(a) made between the French-language Board and an English-language board; or

(b) made before the 1st day of December, 1988 between two English-language boards and concurred in by a majority of the members of the French-language Education Council of each of them and a majority of the other members of each of them.

Allocation of school sites

(8) The school sites transferred to the French-language Board by The Ottawa Board of Education or The Carleton Board of Education shall be allocated to the public sector and the school sites transferred to the French-language Board by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic School Board shall be allocated to the Roman Catholic sector.

Allocation of personal property

(9) The personal property transferred to the French-language Board under this section shall be allocated to the sector to which the school site on which it was used is allocated.

Re-allocation of school sites

(10) If there is a major shift in enrolment of pupils from one sector to the other, the sectors shall, by resolutions of both of them, re-allocate the school sites transferred to the French-language Board under this section to meet the needs of both sectors consequent upon that shift in enrolment.

Idem

(11) If only one sector resolves that a school site be re-allocated under subsection (10), either sector may require that the matter be resolved under Part XI.

31 décembre 1988 sur un emplacement scolaire qui doit être transféré aux termes du présent article sont transférés au Conseil de langue française le 1<sup>er</sup> janvier 1989.

(5) Le Conseil de langue française paie au conseil de langue anglaise intéressé, au plus tard à la date d'exigibilité, tous les montants de principal et d'intérêts qui deviennent exigibles sur les dettes impayées à l'égard d'un emplacement scolaire transféré, aux termes du présent article, de ce conseil de langue anglaise au Conseil de langue française.

Dettes  
relatives  
aux biens  
transférés

(6) Le transfert d'un emplacement scolaire aux termes du présent article ne constitue pas la fermeture d'une école.

Le transfert  
n'est pas une  
fermeture

(7) Les paragraphes (1) à (4) sont assujettis à toute entente concernant le transfert d'emplacements scolaires et de biens meubles qui s'y trouvent, selon le cas :

Entente

- a) conclue entre le Conseil de langue française et un conseil de langue anglaise;
- b) conclue avant le 1<sup>er</sup> décembre 1988 entre deux conseils de langue anglaise et à laquelle souscrivent la majorité des membres du conseil de l'enseignement en langue française de chacun de ces conseils et la majorité des autres membres de chacun d'eux.

(8) Les emplacements scolaires transférés au Conseil de langue française par le Conseil de l'éducation d'Ottawa et le Conseil de l'éducation de Carleton sont attribués à la section publique, et les emplacements scolaires transférés au Conseil de langue française par le Conseil des écoles séparées catholiques d'Ottawa et le Conseil des écoles séparées catholiques de Carleton sont attribués à la section catholique.

Attribution  
des  
emplacements  
scolaires

(9) Les biens meubles transférés au Conseil de langue française aux termes du présent article sont attribués à la section à laquelle l'emplacement scolaire où ils sont utilisés est attribué.

Attribution  
des biens  
meubles

(10) S'il se produit un déplacement important de l'effectif d'une section à l'autre, les sections, par voie de résolution des deux, procèdent à une nouvelle attribution des emplacements scolaires transférés au Conseil de langue française aux termes du présent article afin de répondre aux besoins des deux sections en conséquence de ce déplacement de l'effectif.

Nouvelle attribution  
des  
emplacements  
scolaires

(11) Si une seule des sections décide, par voie de résolution, de procéder à une nouvelle attribution d'un emplacement scolaire aux termes du paragraphe (10), l'une ou l'autre des sections peut exiger que la question soit résolue aux termes de la partie XI.

Idem

Transfer of  
other assets  
required

**60.**—(1) On or before the 31st day of August, 1989, each English-language board shall transfer to the French-language Board assets and reserves in addition to those transferred under section 59.

Equitable  
contribution

(2) The assets and reserves to be transferred under this section by an English-language board shall represent an equitable contribution of that English-language board to the French-language Board.

Negotiations

(3) Forthwith after the 30th day of April, 1988, the members of each English-language board who are members of its French-language Education Council shall enter into negotiations with the other members of that board to choose the board's assets and reserves to be transferred to the French-language Board under this section.

Resolution

(4) On or before the 31st day of August, 1988, each English-language board shall by resolution confirm its choice of the assets and reserves it intends to transfer to the French-language Board under this section.

Idem

(5) An English-language board shall not adopt a resolution under this section unless a majority of its members who are members of its French-language Education Council and a majority of its other members agree to it.

If no  
resolution

(6) If an English-language board does not adopt a resolution in the time provided by subsection (4), the choice of the assets and reserves to be transferred under this section shall be referred to the Commission as a dispute under Part XI and that Part shall apply with necessary modifications as if the dispute between the members of the French-language Education Council and the other members of the English-language board were a dispute between the French-language Board and an English-language board.

Parties

(7) The members of an English-language board who are members of its French-language Education Council and the other members of the board shall be deemed to be the two parties to a dispute under subsection (6).

Allocation of  
assets

(8) The assets and reserves transferred to the French-language Board under this section shall be allocated to,

- (a) the public sector if they are transferred by The Ottawa Board of Education or The Carleton Board of Education;

**60** (1) Au plus tard le 31 août 1989, chaque conseil de langue anglaise transfère au Conseil de langue française des biens et des réserves en plus de ceux qu'il transfère aux termes de l'article 59. Transfert d'autres biens

(2) Les biens et les réserves que transfère un conseil de langue anglaise aux termes du présent article constituent une contribution équitable de sa part au Conseil de langue française. Contribution équitable

(3) Immédiatement après le 30 avril 1988, les membres de chaque conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise entament des négociations avec les autres membres de leur conseil de langue anglaise afin de choisir les biens et les réserves du conseil qui seront transférés au Conseil de langue française aux termes du présent article. Négociations

(4) Au plus tard le 31 août 1988, chaque conseil de langue anglaise confirme, par voie de résolution, le choix des biens et des réserves qu'il a l'intention de transférer au Conseil de langue française aux termes du présent article. Résolution

(5) Un conseil de langue anglaise n'adopte une résolution prévue par le présent article que si la majorité de ses membres qui sont membres de son conseil de l'enseignement en langue française et la majorité de ses autres membres y consentent. Idem

(6) Si un conseil de langue anglaise n'adopte pas de résolution au plus tard à la date prévue au paragraphe (4), le choix des biens et des réserves qui seront transférés aux termes du présent article est renvoyé à la Commission comme un conflit visé à la partie XI, et cette partie s'applique, avec les adaptations nécessaires, comme si le conflit entre les membres du conseil de l'enseignement en langue française et les autres membres du conseil de langue anglaise était un conflit entre le Conseil de langue française et un conseil de langue anglaise. Défaut de résolution

(7) Les membres d'un conseil de langue anglaise qui sont membres du conseil de l'enseignement en langue française relevant de leur conseil de langue anglaise et les autres membres du conseil de langue anglaise sont réputés les deux parties au conflit mentionné au paragraphe (6). Parties

(8) Les biens et les réserves transférés au Conseil de langue française en vertu du présent article sont attribués : Attribution des biens

- a) à la section publique s'ils sont transférés par le Conseil de l'éducation d'Ottawa ou le Conseil de l'éducation de Carleton;

- (b) the Roman Catholic sector if they are transferred by The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

If full board  
not satisfied

(9) If on or before the 31st day of December, 1988 a sector determines by resolution that the assets and reserves of an English-language board chosen for transfer to that sector do not represent an equitable contribution, it shall refer the choice of assets and reserves to the Commission as a dispute under Part XI.

Parties

(10) The sector and the relevant English-language board shall be deemed to be the parties to a dispute under subsection (9).

Full board to  
determine  
needs

(11) The full board shall determine what assets it needs in order to exercise its jurisdiction under this Act.

Proportion

(12) Each sector shall allocate a portion of the assets allocated to it under this section to the full board to meet its needs.

Idem

(13) The value of the assets allocated by a sector shall be the same proportion of the value allocated by both sectors that the average daily enrolment of pupils in the schools of the relevant sector bears to the average daily enrolment of pupils in all of the schools of the French-language Board.

Agreement

(14) Each sector shall by agreement with the full board determine which of the assets allocated to it under subsection (8) are to be re-allocated to the full board and shall re-allocate those assets.

## PART XIII

### TRANSFER OF EMPLOYEES TO FRENCH-LANGUAGE BOARD

Definitions

**61.** In this Part,

“employé”

R.S.O. 1980,  
c. 228

“employee” means a teacher or other employee and includes an employee as defined in the *Labour Relations Act* but does not include the director of education, the secretary or the treasurer of the board;

“ancienneté”

“seniority”, in respect of a transferred employee, means,

- (a) seniority as agreed upon between the English-language board that employed the transferred employee and the organization that entered into a

- b) à la section catholique s'ils sont transférés par le Conseil des écoles séparées catholiques d'Ottawa ou par le Conseil des écoles séparées catholiques de Carleton.

(9) Si, au plus tard le 31 décembre 1988, une section établit par voie de résolution que les biens et les réserves d'un conseil de langue anglaise qui ont été choisis pour le transfert à cette section ne représentent pas une contribution équitable, elle renvoie le choix des biens et des réserves à la Commission comme un conflit visé à la partie XI.

Cas où le conseil plénier n'est pas satisfait

(10) La section intéressée et le conseil de langue anglaise intéressé sont réputés les parties au conflit visé au paragraphe (9).

Parties

(11) Le conseil plénier décide des biens dont il a besoin pour exercer sa compétence en vertu de la présente loi.

Le conseil plénier établit les besoins

(12) Chaque section attribue une partie des biens qui lui sont attribués en vertu de la loi au conseil plénier pour répondre aux besoins de celui-ci.

Proportion

(13) Le rapport entre la valeur des biens attribués par une section et la valeur attribuée par les deux sections est le même que celui qui existe entre l'effectif quotidien moyen dans les écoles de la section intéressée et l'effectif quotidien moyen dans toutes les écoles du Conseil de langue française.

Idem

(14) Chaque section choisit, au moyen d'une entente avec le conseil plénier, lesquels des biens qui lui sont attribués en vertu du paragraphe (8) doivent être attribués de nouveau au conseil plénier, et attribue de nouveau ces biens.

Entente

### PARTIE XIII

#### MUTATION D'EMPLOYÉS AU CONSEIL DE LANGUE FRANÇAISE

**61** Les définitions qui suivent s'appliquent à la présente partie.

Définitions

«ancienneté» S'entend de ce qui suit, en ce qui concerne un employé muté :

«seniority»

- a) soit l'ancienneté dont ont convenu entre eux le conseil de langue anglaise qui employait l'employé muté et l'organisation qui a conclu une convention collective avec le conseil de langue anglaise à l'égard de l'employé muté;

collective agreement with the English-language board in respect of the transferred employees, or

- (b) if there is no collective agreement, seniority as determined in accordance with the policy of the English-language board;

“employé  
muté”

“transferred employee” means an employee of an English-language board who is transferred to the French-language Board under this Part.

Assignment  
of services

**62.**—(1) Each English-language board shall assign to the French-language Board the services in respect of French-language instructional units of each of its employees who during the period from the 1st day of September, 1988 to the 31st day of December, 1988 is assigned or recruited to provide services in or on behalf of French-language instructional units.

Period of  
assignment

(2) The services of each employee shall be assigned for the period beginning from the 1st day of January, 1989 and ending on the earlier of the 31st day of August, 1989 or the date agreed upon by the French-language Board and the relevant English-language board.

Fee for  
services

(3) The French-language Board shall pay to the relevant English-language board an amount agreed upon by both boards for the services provided under this section.

Definition  
“employé  
désigné”

**63.**—(1) In this section, “designated employee” means an employee of an English-language board who on the 1st day of December, 1988,

- (a) is assigned or recruited by that board exclusively for work in or on behalf of French-language instructional units; or
- (b) being employed in the manner described in clause (a), is on authorized leave from that work or temporarily assigned to other work.

Notice to  
designated  
employees

(2) On or before the 15th day of December, 1988, each English-language board shall notify each of its designated employees in writing that he or she will be transferred to the French-language Board effective the 1st day of September, 1989.

Idem

(3) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of February, 1989.



- b) soit, s'il n'y a pas de convention collective, l'ancienneté telle qu'elle est établie par la politique du conseil de langue anglaise.

«employé» S'entend d'un enseignant ou d'un autre employé, y compris un employé au sens de la *Loi sur les relations de travail*. Sont toutefois exclus le directeur de l'éducation, le secrétaire et le trésorier du conseil.

«employee»  
L.R.O. 1980,  
chap. 228

«employé muté» Employé d'un conseil de langue anglaise qui est muté au Conseil de langue française aux termes de la présente partie.

«transferred employee»

**62** (1) Chaque conseil de langue anglaise assigne au Conseil de langue française les services à l'égard des modules scolaires de langue française de chacun de ses employés qui, pendant la période allant du 1<sup>er</sup> septembre 1988 au 31 décembre 1988, est affecté ou recruté pour fournir des services dans les modules scolaires de langue française ou pour leur compte.

Assignation de services

(2) Les services de chaque employé sont assignés pour la période commençant le 1<sup>er</sup> janvier 1989 et se terminant soit le 31 août 1989, soit à la date convenue par le Conseil de langue française et le conseil de langue anglaise intéressé, selon celle de ces deux dates qui survient en premier lieu.

Période d'assignation

(3) Le Conseil de langue française paie au conseil de langue anglaise intéressé une somme convenue par les deux conseils pour les services fournis aux termes du présent article.

Paiement des services

**63** (1) Dans le présent article, «employé désigné» s'entend d'un employé d'un conseil de langue anglaise qui, le 1<sup>er</sup> décembre 1988, selon le cas :

Définition «designated employee»

- a) est affecté ou recruté par ce conseil pour travailler exclusivement dans les modules scolaires de langue française ou pour leur compte;
- b) tout en étant employé de la façon décrite à l'alinéa a), est en congé autorisé ou temporairement affecté à d'autres tâches.

(2) Au plus tard le 15 décembre 1988, chaque conseil de langue anglaise avise par écrit chacun de ses employés désignés qu'il sera muté au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989.

Avis aux employés désignés

(3) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1<sup>er</sup> février 1989.

Idem

Notice of  
positions  
available

(4) Forthwith after the 1st day of February, 1989, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications  
invited

(5) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the designated employees who objected to their transfer.

Seniority

(6) The English-language boards shall choose the other employees who are to be transferred in the place of objecting designated employees on the basis of seniority.

Replacement  
deemed to  
be designated  
employee

(7) If another employee who is qualified to be transferred to the French-language Board in the place of a designated employee applies for a position, the other employee shall be deemed to be a designated employee and the employee who objected shall be deemed not to be a designated employee.

Notice of  
transfer

(8) Forthwith after the 15th day of May, 1989, each English-language board shall notify all of its designated employees in writing that they will be transferred to the French-language Board effective the 1st day of September, 1989.

Respon-  
sibility for  
contracts

(9) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee who is transferred under this section is transferred to and assumed by the French-language Board effective the 1st day of September, 1989.

Similar  
employment

(10) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Collective  
agreement

(11) Subsections (2) to (7) are subject to any applicable collective agreement.

Determine  
number of  
employees

**64.**—(1) Each English-language board shall determine the number of its employees other than those designated under section 63 whose services will not be required by it consequent upon the formation of the French-language Board.

Determine  
number of  
positions

(2) The French-language Board shall determine the number of positions it will need to fill consequent upon its formation.

(4) Immédiatement après le 1<sup>er</sup> février 1989, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines.

Avis des postes disponibles

(5) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés désignés qui se sont opposés à leur mutation, et possèdent les qualités requises.

Appel de demandes

(6) Les conseils de langue anglaise choisissent en fonction de l'ancienneté les autres employés qui seront mutés à la place des employés désignés qui s'opposent à leur mutation.

Ancienneté

(7) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place d'un employé désigné fait une demande d'emploi, l'autre employé est réputé un employé désigné et l'employé qui s'est opposé est réputé ne pas être un employé désigné.

Remplaçant réputé un employé désigné

(8) Immédiatement après le 15 mai 1989, chaque conseil de langue anglaise avise par écrit tous ses employés désignés qu'ils seront mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989.

Avis de mutation

(9) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé muté en vertu du présent article est transféré au Conseil de langue française à compter du 1<sup>er</sup> septembre 1989, et ce conseil l'assume.

Responsabilité des contrats

(10) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation.

Emploi semblable

(11) Les paragraphes (2) à (7) sont assujettis à toute convention collective applicable.

Convention collective

**64** (1) Chaque conseil de langue anglaise décide du nombre de ses employés, autres que ceux qui sont désignés aux termes de l'article 63, dont il ne nécessitera pas les services par suite de la formation du Conseil de langue française.

Nombre d'employés

(2) Le Conseil de langue française décide du nombre de postes qu'il devra combler par suite de sa formation.

Nombre de postes

Select  
employees  
for transfer

(3) The English-language boards and the French-language Board shall select the employees of the English-language boards who are to be transferred to the French-language Board to fill the positions referred to in subsection (2).

Selection by  
agreements

(4) The selections under subsection (3) shall be made by agreements between the public sector and The Ottawa Board of Education, the public sector and The Carleton Board of Education, the Roman Catholic sector and The Ottawa Roman Catholic Separate School Board and the Roman Catholic sector and The Carleton Roman Catholic Separate School Board.

Agreements  
may be  
combined

(5) Either sector, by written notice to the two English-language boards with which it is to make agreements under subsection (4), may choose to negotiate one agreement with both of them rather than separate agreements with each of them.

Contents of  
agreements

(6) The agreements shall provide for,

- (a) the exchange of enrolment and other data among the boards so as to enable them to make the appropriate selections;
- (b) methods for encouraging voluntary transfers of employees to positions with the French-language Board; and
- (c) a right of first refusal, on the basis of seniority, for selected persons with respect to positions that become vacant in their English-language board.

Idem

(7) The agreements may contain provisions in addition to those required by subsection (6), including provisions to encourage the secondment and assignment of services of teachers and supervisory officers of the English-language board to positions with the French-language Board.

Collective  
agreements

(8) No agreement under subsection (4) renders inoperative any provision in a collective agreement unless the parties to the collective agreement agree in writing to an amendment to it.

Yearly  
selections

(9) The determinations and selection shall be made in 1989, 1990 and 1991, not later than the last day of February in each year.

Notice to  
selected  
employees

(10) On or before the 1st day of March in 1989, 1990 and 1991, each English-language board shall notify in writing each of its employees who have been selected for transfer in the

(3) Les conseils de langue anglaise et le Conseil de langue française choisissent les employés des conseils de langue anglaise qui doivent être mutés au Conseil de langue française pour combler les postes visés au paragraphe (2).

Choix des employés devant être mutés

(4) Les choix prévus au paragraphe (3) sont faits au moyen d'ententes entre la section publique et le Conseil de l'éducation d'Ottawa, la section publique et le Conseil de l'éducation de Carleton, la section catholique et le Conseil des écoles séparées catholiques d'Ottawa, et la section catholique et le Conseil des écoles séparées catholiques de Carleton.

Choix au moyen d'une entente

(5) L'une ou l'autre des sections peut, au moyen d'un avis écrit remis aux deux conseils de langue anglaise avec lesquels elle conclut des ententes aux termes du paragraphe (4), choisir de négocier une seule entente avec les deux conseils plutôt qu'une entente distincte avec chacun d'eux.

Les ententes peuvent être jointes

(6) Les ententes prévoient ce qui suit :

Contenu des ententes

- a) l'échange de données sur l'effectif et d'autres sujets entre les conseils de façon à leur permettre de faire les choix appropriés;
- b) des méthodes visant à encourager les employés à accepter volontairement des mutations à des postes au Conseil de langue française;
- c) un droit de premier refus, en fonction de l'ancienneté, pour les personnes choisies en ce qui concerne les postes qui deviennent vacants dans leur conseil de langue anglaise.

(7) Les ententes peuvent comprendre, outre les dispositions exigées par le paragraphe (6), des dispositions visant notamment à encourager les détachements et l'assignation des services d'enseignants et d'agents de supervision des conseils de langue anglaise à des postes au Conseil de langue française.

Idem

(8) L'entente prévue au paragraphe (4) ne rend inopérante aucune disposition d'une convention collective, à moins que les parties à la convention collective ne conviennent, par écrit, de modifier la convention collective.

Conventions collectives

(9) Les décisions et le choix sont faits en 1989, 1990 et 1991, au plus tard le dernier jour de février de chaque année.

Choix annuels

(10) Au plus tard le 1<sup>er</sup> mars en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit chacun de ses employés qui ont été choisis pour la mutation au cours de

Avis aux employés choisis

relevant year that he or she will be transferred to the French-language Board effective the 1st day of September next following.

Idem

(11) The notice shall inform the employee that he or she may object to the transfer by notice in writing to the English-language board on or before the 1st day of April in that year.

Notice of positions available

(12) Forthwith after the 1st day of April in 1989, 1990 and 1991, each English-language board shall post notice of the positions in respect of which notices of objection have been received in a conspicuous place in each of its schools and keep the notice posted for at least two weeks.

Applications invited

(13) The notice shall invite applications from other employees who are willing and qualified to be transferred to the French-language Board in the place of the selected employees who objected to their transfer.

Replacement deemed to be selected

(14) If another employee who is qualified to be transferred to the French-language Board in the place of the selected employee applies for a position, the other employee shall be deemed to be so selected and the employee who objected shall be deemed not to be so selected.

Notice of transfer

(15) Forthwith after the 15th day of May in 1989, 1990 and 1991, each English-language board shall give written notice to all of its employees who are selected for transfer in the relevant year that they will be transferred to the French-language Board effective the 1st day of September in that year.

Responsibility for contracts

(16) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee selected under subsection (3) or (14) is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement is reached or such earlier date as all of the boards may agree upon.

Similar employment

(17) The French-language Board shall employ a person whose teaching contract, employment contract or employment relationship is transferred to it in a position substantially similar to the position in which the person was employed by the English-language board immediately before the transfer.

Seniority

(18) Subject to any collective agreement in effect, each English-language board shall determine the persons who are to be selected for transfer for any given position under subsection (3) or (14) on the basis of seniority.

l'année en question qu'il sera muté au Conseil de langue française à compter du 1<sup>er</sup> septembre suivant.

(11) L'avis informe l'employé qu'il peut s'opposer à la mutation au moyen d'un avis écrit adressé au conseil de langue anglaise au plus tard le 1<sup>er</sup> avril de cette année. Idem

(12) Immédiatement après le 1<sup>er</sup> avril en 1989, 1990 et 1991, chaque conseil de langue anglaise affiche un avis des postes à l'égard desquels des avis d'objection ont été reçus, dans un endroit bien en vue dans chacune de ses écoles et laisse l'avis affiché pendant au moins deux semaines. Avis des postes disponibles

(13) L'avis invite à postuler les autres employés qui accepteraient d'être mutés au Conseil de langue française à la place des employés choisis qui se sont opposés à leur mutation, et possèdent les qualités requises. Appel de demandes

(14) Si un autre employé qui possède les qualités requises pour être muté au Conseil de langue française à la place de l'employé choisi fait une demande d'emploi, l'autre employé est réputé avoir été choisi et l'employé qui s'est opposé est réputé ne pas l'avoir été. Remplaçant réputé choisi

(15) Immédiatement après le 15 mai en 1989, 1990 et 1991, chaque conseil de langue anglaise avise par écrit tous ses employés choisis pour la mutation au cours de l'année en question qu'ils seront mutés au Conseil de langue française à compter du 1<sup>er</sup> septembre de cette année. Avis de mutation

(16) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, de l'employé choisi en vertu du paragraphe (3) ou (14) est transféré au Conseil de langue française et ce conseil l'assume, à compter du 1<sup>er</sup> septembre qui suit la date de l'entente ou d'une date antérieure dont ont convenu tous les conseils. Responsabilité des contrats

(17) Le Conseil de langue française accorde à la personne dont le contrat d'enseignement, le contrat d'emploi ou la relation de travail lui est transféré un poste essentiellement semblable à celui qu'elle occupait au conseil de langue anglaise immédiatement avant sa mutation. Emploi semblable

(18) Sous réserve des conventions collectives en vigueur, chaque conseil de langue anglaise décide en fonction de l'ancienneté des personnes qui sont choisies pour la mutation à des postes donnés aux termes du paragraphe (3) ou (14). Ancienneté

Priority to employees of English-language boards

(19) In 1989, 1990 and 1991, the French-language Board shall not hire a person who is not an employee of an English-language board to fill a position required to be filled under subsection (2) if there is an employee of an English-language board whose services are no longer required under subsection (1) and who is qualified and available to fill the position.

Collective agreement

(20) Subsections (10) to (14) are subject to any applicable collective agreement.

Identify employees for whom there is no position

**65.**—(1) The agreements made in 1989, 1990 and 1991 under subsection 64 (4) shall identify the employees of each English-language board for whom there is no position on the English-language board or the French-language Board consequent upon the formation of the French-language Board.

Entitled to training assistance

(2) An employee described in subsection (1) is entitled to receive training assistance comparable to the training assistance prescribed for a designated person under subsection 136-1 (9) of the *Education Act*.

R.S.O. 1980, c. 129

Maintain in employ

(3) The relevant sector or the relevant English-language board shall maintain an employee described in subsection (1) in its employ, provide the training assistance to which the employee is entitled and offer the employee employment in a position appropriate to the employee's previous or newly acquired qualifications.

Agreement

(4) The agreements under subsection 64 (4) shall provide for an equitable sharing of the responsibility under subsection (3).

Idem

(5) In determining what is an equitable sharing of responsibility, the boards shall consider for each category of employees within each English-language board all of the relevant circumstances including,

- (a) the number of employees who have been transferred to the French-language Board under sections 63 and 64;
- (b) the number of employees described in subsection (1);
- (c) the total number of employees of the English-language board; and



(19) En 1989, 1990 et 1991, le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé d'un conseil de langue anglaise pour combler un poste qui doit être comblé aux termes du paragraphe (2) s'il y a un employé d'un conseil de langue anglaise dont les services ne sont plus nécessaires aux termes du paragraphe (1) qui est disponible et possède les qualités requises pour assumer ce poste.

Priorité accordée aux employés des conseils de langue anglaise

(20) Les paragraphes (10) à (14) sont assujettis à toute convention collective applicable.

Convention collective

**65** (1) Les ententes conclues en 1989, 1990 et 1991 aux termes du paragraphe 64 (4) énoncent les noms des employés de chaque conseil de langue anglaise pour lesquels il n'y a de poste ni au conseil de langue anglaise ni au Conseil de langue française par suite de la formation du Conseil de langue française.

Noms des employés sans poste

(2) Les employés visés au paragraphe (1) ont le droit de recevoir une aide en matière de formation semblable à l'aide prescrite pour une personne désignée en vertu du paragraphe 136-1 (9) de la *Loi sur l'éducation*.

Aide en matière de formation

L.R.O. 1980, chap. 129

(3) La section intéressée ou le conseil de langue anglaise intéressé garde l'employé visé au paragraphe (1) à son service, lui fournit l'aide en matière de formation à laquelle il a droit et lui offre un poste qui correspond à sa formation préalable ou à sa formation nouvellement acquise.

Maintien en poste

(4) Les ententes visées au paragraphe 64 (4) prévoient un partage équitable de la responsabilité visée au paragraphe (3).

Entente

(5) Pour déterminer ce qui constitue un partage équitable de la responsabilité, les conseils tiennent compte, pour chaque catégorie d'employés dans chaque conseil de langue anglaise, de toutes les circonstances pertinentes, y compris les éléments suivants :

Idem

- a) le nombre d'employés qui ont été mutés au Conseil de langue française en vertu des articles 63 et 64;
- b) le nombre d'employés visés au paragraphe (1);
- c) le nombre total d'employés du conseil de langue anglaise;

- (d) the percentage of pupils who were pupils of that English-language board and have transferred to the French-language Board.

Idem

(6) For the purpose of subsection (5), the categories of employees are supervisory officers, teachers, secretaries, maintenance workers, administrative assistants and other employees.

Responsible for contracts

(7) Subject to sections 67 and 75, the teaching contract, employment contract or employment relationship, as the case may be, of an employee for whom the French-language Board is responsible under this section is transferred to and assumed by the French-language Board effective the 1st day of September next following the date upon which the agreement providing for that responsibility is reached or such earlier date as the parties to the agreement may agree upon.

Priority of identified employees

(8) In 1989, 1990 and 1991, an English-language board shall not hire a person other than an employee identified under subsection (1) to fill a position unless there is no such employee who is qualified to fill the position and whose employment continues to be maintained by any of the English-language boards or the French-language Board.

Jurisdiction within French-language Board

**66.**—(1) The teaching contract, employment contract or employment relationship of a transferred employee is under the jurisdiction of,

- (a) the public sector, if the employee is transferred from The Ottawa Board of Education or The Carleton Board of Education;
- (b) the Roman Catholic sector, if the employee is transferred from The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board.

Agreement for transfer to full board

(2) Subject to section 75, the public sector and the Roman Catholic sector shall each make an agreement with the full board to transfer specified employees and their contracts or employment relationships from the relevant sector to the full board.

Idem

(3) In making the agreements, the parties shall take into account the needs of the relevant sector, the needs of the full board and the requirements under subsections 63 (10) and 64 (17) that transferred employees be employed in positions substantially similar to their positions before the transfer.

- d) le pourcentage d'élèves qui étaient des élèves de ce conseil de langue anglaise et qui sont passés au Conseil de langue française.

(6) Pour l'application du paragraphe (5), les catégories d'employés sont les agents de supervision, les enseignants, les secrétaires, les préposés à l'entretien, les adjoints administratifs et les autres employés. Idem

(7) Sous réserve des articles 67 et 75, le contrat d'enseignement, le contrat d'emploi ou la relation de travail, selon le cas, d'un employé dont le Conseil de langue française est responsable aux termes du présent article est transféré au Conseil de langue française et celui-ci l'assume, à compter du 1<sup>er</sup> septembre qui suit la date de l'entente qui prévoit cette responsabilité ou d'une date antérieure dont conviennent les parties à l'entente. Responsabilité des contrats

(8) En 1989, 1990 et 1991, un conseil de langue anglaise ne doit pas engager une personne qui n'est pas un employé dont le nom est énoncé en vertu du paragraphe (1) pour combler un poste à moins qu'il n'y ait pas un tel employé qui possède les qualités requises pour assumer ce poste et qui continue d'être employé par un des conseils de langue anglaise ou le Conseil de langue française. Priorité aux employés dont les noms sont énoncés

**66** (1) Le contrat d'enseignement, le contrat d'emploi ou la relation de travail d'un employé muté relève : Compétence au sein du Conseil de langue française

- a) de la section publique, si l'employé est muté du Conseil de l'éducation d'Ottawa ou du Conseil de l'éducation de Carleton;
- b) de la section catholique, si l'employé est muté du Conseil des écoles séparées catholiques d'Ottawa ou du Conseil des écoles séparées catholiques de Carleton.

(2) Sous réserve de l'article 75, la section publique et la section catholique concluent chacune avec le conseil plénier une entente en vue de la mutation d'employés spécifiés et de leur contrat ou relation de travail, de la section intéressée au conseil plénier. Entente en vue de la mutation au conseil plénier

(3) Lorsqu'elles concluent les ententes, les parties tiennent compte des besoins de la section intéressée, des besoins du conseil plénier et des exigences prévues aux paragraphes 63 (10) et 64 (17) selon lesquelles les employés mutés doivent occuper des postes essentiellement semblables à ceux qu'ils occupaient avant la mutation. Idem

## Seniority

(4) Subject to any collective agreement in effect, the parties shall determine on the basis of seniority which employees are to be transferred to the full board.

## Terms of employment

**67.**—(1) The terms of employment of the following transferred employees shall be determined under the collective agreement or board policy that applied to them immediately before the transfer until the French-language Board reaches a new collective agreement or determines a board policy that applies to them:

1. Transferred employees who are transferred from an English-language board in 1989 and who immediately before the transfer were working in a building of that English-language board that was transferred to the French-language Board.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment applying to them immediately before the transfer are determined under a collective agreement or board policy that still applies to other employees with substantially the same job description who were transferred from the same English-language board in 1989.

## Idem

(2) The terms of employment of the following persons shall be determined in the manner provided in subsections (3) and (4):

1. Persons who are not transferred employees and who are recruited or assigned to work for the French-language Board in 1989, 1990 or 1991.
2. Transferred employees who are transferred from an English-language board in 1990 or 1991, if the terms of employment have been renegotiated by the French-language Board for other transferred employees who,
  - i. were transferred in 1989 from that same English-language board, and
  - ii. have substantially the same job description.
3. Transferred employees who are transferred from an English-language board if,
  - i. immediately before the transfer they were working in a building of that English-language

(4) Sous réserve des conventions collectives en vigueur, les parties choisissent en fonction de l'ancienneté les employés qui sont mutés au conseil plénier. Ancienneté

**67** (1) Les conditions d'emploi des employés mutés suivants sont établies aux termes de la convention collective ou de la politique de conseil qui s'appliquait à eux immédiatement avant la mutation, jusqu'à ce que le Conseil de langue française conclue une nouvelle convention collective ou établisse une politique de conseil qui s'applique à eux : Conditions d'emploi

1. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1989 et qui, immédiatement avant la mutation, travaillaient dans un bâtiment du conseil de langue anglaise qui a été transféré au Conseil de langue française.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi qui s'appliquaient à eux immédiatement avant la mutation sont établies aux termes d'une convention collective ou d'une politique de conseil qui s'applique encore à d'autres employés qui ont des descriptions d'emploi essentiellement semblables et qui ont été mutés du même conseil de langue anglaise en 1989.

(2) Les conditions d'emploi des personnes suivantes sont établies de la façon prévue aux paragraphes (3) et (4) : Idem

1. Les personnes qui ne sont pas des employés mutés et qui sont recrutées ou affectées pour travailler pour le Conseil de langue française en 1989, 1990 ou 1991.
2. Les employés mutés qui sont mutés d'un conseil de langue anglaise en 1990 ou 1991, si les conditions d'emploi ont été renégociées par le Conseil de langue française pour les autres employés mutés qui :
  - i. d'une part, ont été mutés en 1989 du même conseil de langue anglaise,
  - ii. d'autre part, ont des descriptions d'emploi essentiellement semblables.
3. Les employés mutés qui sont mutés d'un conseil de langue anglaise si :
  - i. d'une part, ils travaillaient, immédiatement avant la mutation, dans un bâtiment de ce

board that was not transferred to the French-language Board, and

- ii. the collective agreement or board policy governing their terms of employment is different from that applying to other transferred employees having substantially the same job description who immediately before their transfer were working in a building of that English-language board that was transferred to the French-language Board.

Idem

(3) The terms of employment of a person described in subsection (2) shall be determined under the collective agreement or board policy applying to transferred employees who,

- (a) were transferred from the same English-language board that transferred the building in which the person is recruited or assigned to work; and
- (b) have substantially the same job description.

Idem

(4) If a person described in subsection (2) is recruited or assigned to work in a building that was not transferred from an English-language board, the French-language Board shall determine which collective agreement or board policy governs that person's terms of employment.

Definition  
"ancienneté"

**68.**—(1) In this section, "seniority", in respect of a position in a school or premises of the French-language Board, means seniority determined on the basis of the seniority list applying to employees transferred from the same English-language board that transferred the school or premises.

Hiring  
persons

(2) The French-language Board shall not hire a person who is not a transferred employee if there is a transferred employee who is qualified, willing and available to fill the position.

Idem

(3) Before a sector or the full board fills a position, it shall notify all transferred employees and employees described in section 65 of the position by causing a notice to be posted in all of the schools of both sectors and of the English-language boards and at the head office of the French-language Board and the English-language boards.

conseil de langue anglaise qui n'a pas été transféré au Conseil de langue française,

- ii. d'autre part, la convention collective ou la politique de conseil qui régit leurs conditions d'emploi est différente de celle qui s'applique aux autres employés mutés qui ont des descriptions d'emploi essentiellement semblables et qui, immédiatement avant leur mutation, travaillaient dans un bâtiment de ce conseil de langue anglaise qui a été transféré au Conseil de langue française.

(3) Les conditions d'emploi de la personne décrite au paragraphe (2) sont établies aux termes de la convention collective ou de la politique de conseil s'appliquant aux employés mutés qui : Idem

- a) d'une part, ont été mutés du même conseil de langue anglaise qui a transféré le bâtiment dans lequel la personne recrutée ou affectée est censée travailler;
- b) d'autre part, ont des descriptions d'emploi essentiellement semblables.

(4) Si la personne décrite au paragraphe (2) est recrutée ou affectée pour travailler dans un bâtiment qui n'a pas été transféré du conseil de langue anglaise, le Conseil de langue française choisit quelle convention collective ou politique de conseil régit les conditions d'emploi de cette personne. Idem

**68** (1) Dans le présent article, «ancienneté», à l'égard d'un poste dans une école ou des lieux du Conseil de langue française, s'entend de l'ancienneté établie en fonction de la liste d'ancienneté qui s'applique aux employés mutés du conseil de langue anglaise qui a transféré l'école ou les lieux. Définition «seniority»

(2) Le Conseil de langue française ne doit pas engager une personne qui n'est pas un employé muté s'il y a un employé muté qui est disponible, qui possède les qualités requises pour assumer le poste et qui accepte de le faire. Engagement de personnes

(3) Avant de combler un poste, la section ou le conseil plénier avise du poste tous les employés mutés et tous les employés décrits à l'article 65 en faisant afficher un avis dans toutes les écoles des deux sections et de tous les conseils de langue anglaise ainsi qu'aux sièges sociaux du Conseil de langue française et des conseils de langue anglaise. Idem

Seniority of transferred employees

(4) No person who is not a transferred employee shall have seniority over a transferred employee who is employed by the French-language Board and has substantially the same job description.

Idem

(5) Subsection (4) applies even if the persons' contracts or employment relationships are administered by different sectors or one is administered by a sector and the other by the full board.

Application of section

(6) This section applies until the 30th day of June, 1999.

Agreement

(7) The French-language Board and the branch affiliate or affiliates representing persons having substantially the same job descriptions may by agreement in writing provide that a provision in this section does not apply to those persons.

Conflict

R.S.O. 1980, c. 228

(8) This section does not apply if an application is made under section 63 of the *Labour Relations Act* in respect of employees who are deemed to be intermingled under section 75 of this Act.

Compensation rate

**69.** If the terms of employment of a transferred employee change under section 67 as a result of the transfer, the employee has the right to an annual rate of salary equal to the greater of,

- (a) the annual rate of salary that the employee would have been entitled to if he or she had continued to be employed by the English-language board in the first year that he or she is employed by the French-language Board; or
- (b) the annual rate of salary of the position in which he or she is employed by the French-language Board.

Sick leave credits

**70.—(1)** Sick leave credits standing to a transferred employee's credit with an English-language board shall be transferred to the plan maintained by the French-language Board at the time the person's employment is transferred.

Idem

(2) If the French-language Board does not maintain a plan at the time a transferred employee's contract or employment relationship is transferred, the employee is entitled to receive sick leave benefits from the French-language Board and the French-language Board shall place to the employee's credit the sick leave credits standing to his or her credit in the plan that applied to the employee while employed by the English-language board.



(4) Quiconque n'est pas un employé muté n'a pas plus d'ancienneté qu'un employé muté ayant une description d'emploi essentiellement semblable au Conseil de langue française.

Ancienneté  
des employés  
mutés

(5) Le paragraphe (4) s'applique même si les contrats ou les relations de travail des personnes sont administrés par des sections différentes ou qu'ils sont administrés les uns par une section et les autres par le conseil plénier.

Idem

(6) Le présent article s'applique jusqu'au 30 juin 1999.

Application  
de l'article

(7) Le Conseil de langue française et la ou les sections locales représentant les personnes qui ont des descriptions d'emploi essentiellement semblables peuvent conclure une entente écrite qui prévoit qu'une disposition du présent article ne s'applique pas à ces personnes.

Entente

(8) Le présent article ne s'applique pas si une requête est présentée en vertu de l'article 63 de la *Loi sur les relations de travail* à l'égard d'employés réputés réunis en vertu de l'article 75 de la présente loi.

Incompati-  
bilité  
L.R.O. 1980,  
chap. 228

**69** Si les conditions d'emploi d'un employé muté changent aux termes de l'article 67 par suite de la mutation, l'employé a droit à un taux de salaire annuel égal au plus élevé des montants suivants :

Taux de  
rémunération

- a) le taux de salaire annuel auquel l'employé aurait eu droit s'il était resté au service du conseil de langue anglaise pendant la première année où il est au service du Conseil de langue française;
- b) le taux de salaire annuel du poste auquel il est employé au Conseil de langue française.

**70** (1) Les crédits pour congés de maladie que l'employé muté a accumulés auprès d'un conseil de langue anglaise sont transférés au régime que maintient le Conseil de langue française au moment de la mutation de l'employé.

Crédits pour  
congés de  
maladie

(2) Si le Conseil de langue française ne maintient pas de régime au moment où le contrat ou la relation de travail de l'employé muté est transféré, l'employé a droit à des congés de maladie de la part du Conseil de langue française, et celui-ci crédite à l'employé les crédits pour congés de maladie que l'employé a accumulés dans le régime qui s'appliquait à lui lorsqu'il était au service du conseil de langue anglaise.

Idem

Credit for  
total accumu-  
lation

(3) If the terms of the plan maintained by the French-language Board differ from the terms of the plan that applied to the transferred employee while employed by the English-language board and the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan maintained by the French-language Board, the transferred employee shall be given credit for the number transferred but is not entitled to accumulate further sick leave credits unless the plan maintained by the French-language Board is amended to permit a greater accumulation.

Accumulation  
and use of  
sick leave  
credits

(4) Subject to subsection (3), a transferred employee is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the French-language Board.

Gratuity

**71.**—(1) Upon termination of employment with the French-language Board, a transferred employee is entitled to payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applied in respect of the person on the last date that the person was employed by the English-language board as though the person had continued to be employed by the English-language board.

Idem

(2) In lieu of the payment under subsection (1), a transferred employee has the right to require payment of an amount calculated in accordance with the teaching contract, employment contract or employment relationship that applies in respect of the person on the last date that the person is employed by the French-language Board.

Idem

(3) The amount of the payment under this section shall be shared by the English-language board and the French-language Board in the ratio that the number of years of the transferred employee's service with each board bears to the total number of years of his or her service with both boards.

Employee  
dispute  
resolution

**72.**—(1) A dispute in respect of any matter arising under this Part in the employment relationship between an employee and the French-language Board or an English-language board may be resolved by a grievance arbitration in accordance with this section.

Parties

(2) The parties to the arbitration are the French-language Board or the relevant English-language board, as the case requires, and the person or, if the person is employed under a collective agreement, the organization that represents the person under the collective agreement.

(3) Si les conditions du régime maintenu par le Conseil de langue française diffèrent des conditions du régime qui s'appliquait à l'employé muté lorsqu'il était au service du conseil de langue anglaise et que le nombre de crédits pour congés de maladie qui sont transférés dépasse le nombre total de crédits de ce genre qui peuvent être accumulés en vertu du régime maintenu par le Conseil de langue française, l'employé muté reçoit un crédit pour le nombre ainsi transféré. Il n'a toutefois pas le droit d'accumuler d'autres crédits pour congés de maladie à moins que le régime maintenu par le Conseil de langue française ne soit modifié afin de permettre l'accumulation d'un plus grand nombre de crédits.

Nombre total  
de crédits  
accumulés

(4) Sous réserve du paragraphe (3), l'employé muté a le droit d'accumuler et d'utiliser des crédits pour congés de maladie conformément au régime que maintient le Conseil de langue française.

Accumulation  
et utilisation  
des crédits  
pour congés  
de maladie

**71** (1) À la fin de son emploi au Conseil de langue française, l'employé muté a le droit de recevoir un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'appliquait à son égard le dernier jour de son emploi auprès du conseil de langue anglaise, comme si la personne était restée au service du conseil de langue anglaise.

Droit à un  
paiement

(2) Au lieu de recevoir le paiement prévu au paragraphe (1), l'employé muté a le droit d'exiger le paiement d'un montant calculé conformément au contrat d'enseignement, au contrat d'emploi ou à la relation de travail qui s'applique à son égard le dernier jour de son emploi au Conseil de langue française.

Idem

(3) Le conseil de langue anglaise et le Conseil de langue française se partagent le montant du paiement prévu au présent article en fonction du rapport qui existe entre le nombre d'années de service de l'employé muté auprès de chaque conseil et le nombre total d'années de service de l'employé muté auprès des deux conseils.

Idem

**72** (1) Un conflit à l'égard d'une question soulevée dans le cadre de la présente partie relativement à la relation de travail entre un employé et le Conseil de langue française ou un conseil de langue anglaise peut être résolu par arbitrage des griefs conformément au présent article.

Résolution  
des conflits  
des employés

(2) Les parties à l'arbitrage sont le Conseil de langue française ou le conseil de langue anglaise intéressé, selon le cas, et la personne ou, si cette dernière est employée aux termes d'une convention collective, l'organisation qui la représente aux termes de la convention collective.

Parties

Grievance  
arbitration  
R.S.O. 1980,  
c. 129

(3) Subsections 136m (3) to (16) and sections 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to a grievance arbitration under subsection (1).

Transfer of  
employees  
from public  
to Roman  
Catholic  
sector

**73.**—(1) Sections 136-1, 136-1a, 136m, 136ma, 136mb, 136mc, 136md and 136me of the *Education Act* apply with necessary modifications to the transfer of employees from the public sector to the Roman Catholic sector, and for the purpose of applying those provisions the Roman Catholic sector shall be deemed to begin to perform the duties of a secondary school board on the 1st day of January, 1989.

Regulations  
not to apply

(2) Despite subsection (1), the regulations under section 136-1 of the *Education Act* do not apply to the French-language Board and if the sectors fail to reach an agreement under that section the matter shall be referred to the Commission as a dispute under Part XI.

Application  
of R.S.O.  
1980, c. 464

**74.**—(1) For the purposes of the *School Boards and Teachers Collective Negotiations Act*,

- (a) the Roman Catholic sector shall be deemed to be a Roman Catholic separate school board in respect of its elementary schools and a secondary school board in respect of its secondary schools;
- (b) the public sector shall be deemed to be a public board in respect of its elementary schools and a secondary school board in respect of its secondary schools.

Idem

(2) For the purposes of that Act, the following branch affiliates shall be deemed to exist:

1. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in elementary schools of the public sector.
2. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the public sector.

(3) Les paragraphes 136m (3) à (16) et les articles 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à l'arbitrage des griefs prévu au paragraphe (1).

Arbitrage des  
griefs  
L.R.O. 1980,  
chap. 129

**73** (1) Les articles 136-1, 136-la, 136m, 136ma, 136mb, 136mc, 136md et 136me de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, à la mutation d'employés de la section publique à la section catholique. Pour l'application de ces dispositions, la section catholique est réputée commencer à s'acquitter des fonctions d'un conseil d'écoles secondaires le 1<sup>er</sup> janvier 1989.

Mutation  
d'employés de  
la section  
publique à la  
section catho-  
lique

(2) Malgré le paragraphe (1), les règlements pris en application de l'article 136-1 de la *Loi sur l'éducation* ne s'appliquent pas au Conseil de langue française, et si les sections n'arrivent pas à une entente dans le cadre de cet article, la question est renvoyée à la Commission comme un conflit visé à la partie XI.

Certains règle-  
ments ne s'ap-  
pliquent pas

**74** (1) Pour l'application de la *Loi sur la négociation collective entre conseils scolaires et enseignants* :

Champ d'ap-  
plication du  
chap. 464 des  
L.R.O. de  
1980

- a) la section catholique est réputée un conseil d'écoles séparées catholiques en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires;
- b) la section publique est réputée un conseil public en ce qui concerne ses écoles élémentaires et un conseil d'écoles secondaires en ce qui concerne ses écoles secondaires.

(2) Pour l'application de cette loi, les sections locales suivantes sont réputées exister :

Idem

1. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles élémentaires de la section publique.
2. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section publique.

3. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in elementary schools of the Roman Catholic sector.
4. One consisting of the members of l'Association des Enseignants Franco-Ontariens who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the Roman Catholic sector.
5. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the public sector.
6. One consisting of the members of The Ontario Secondary School Teachers' Federation who are assigned to the French-language Board under section 62 or designated under section 63 and who work in secondary schools of the Roman Catholic sector.

Deemed notice of desire to negotiate  
R.S.O. 1980, c. 464

(3) Notice of desire to negotiate shall be deemed to have been given by each of the branch affiliates under section 9 of the *School Boards and Teachers Collective Negotiations Act* on the 1st day of January, 1989.

Transfer of jurisdiction not limited

(4) Despite subsection 4 (1) of the *School Boards and Teachers Collective Negotiations Act*, nothing in subsection (1) limits the right of the sectors to transfer their jurisdiction over collective bargaining to the full board under subsection 4 (4) of this Act.

Successor rights  
R.S.O. 1980, c. 228

**75.—**(1) For the purpose of section 63 of the *Labour Relations Act*, the employees who are not teachers and who are transferred from the English-language boards to the public sector shall be deemed to have been intermingled, and,

- (a) the Labour Relations Board may exercise the like powers as it may exercise under subsections 63 (6) and (8) of that Act with respect to the sale of a business under that section;

3. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles élémentaires de la section catholique.
4. Une section locale composée des membres de l'Association des Enseignants Franco-Ontariens qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section catholique.
5. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section publique.
6. Une section locale composée des membres de la Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario qui sont affectés au Conseil de langue française en vertu de l'article 62 ou désignés en vertu de l'article 63, et qui travaillent dans des écoles secondaires de la section catholique.

(3) L'avis d'intention de négocier est réputé avoir été donné par chacune des sections locales en vertu de l'article 9 de la *Loi sur la négociation collective entre conseils scolaires et enseignants* le 1<sup>er</sup> janvier 1989.

Avis d'intention de négocier réputé donné  
L.R.O. 1980,  
chap. 464

(4) Malgré le paragraphe 4 (1) de la *Loi sur la négociation collective entre conseils scolaires et enseignants*, le paragraphe (1) n'a pas pour effet de restreindre le droit des sections de transférer au conseil plénier, en vertu du paragraphe 4 (4) de la présente loi, leur compétence en matière de négociation collective.

Le transfert de compétence n'est pas restreint

**75** (1) Pour l'application de l'article 63 de la *Loi sur les relations de travail*, les employés qui ne sont pas des enseignants et qui sont mutés des conseils de langue anglaise à la section publique sont réputés réunis et les dispositions suivantes s'appliquent :

Droits du conseil qui succède  
L.R.O. 1980,  
chap. 228

- a) la Commission des relations de travail peut exercer les mêmes pouvoirs que ceux qu'elle peut exercer en vertu des paragraphes 63 (6) et (8) de cette loi relativement à la vente d'une entreprise aux termes de cet article;

- (b) the public sector has the like rights and obligations as a person to whom a business is sold under that section and who intermingles the employees of one of the person's businesses with those of another of the person's businesses; and
- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees in two or more businesses under section 63 of that Act.

Idem

(2) Subsection (1) applies with necessary modifications in respect of employees transferred to the Roman Catholic sector or to the full board in the same manner as to employees transferred to the public sector.

Certain sections prevail

(3) Sections 69, 70 and 71 prevail over this section in respect of employees described in this section.

Non-application of certain sections

(4) Sections 67, 68 and 72 do not apply to employees described in this section after an application is made to the Labour Relations Board under this section.

## PART XIV

### MISCELLANEOUS, TRANSITION AND COMPLEMENTARY AMENDMENTS

Application of Part I of R.S.O. 1980, c. 129

**76.** Part I of the *Education Act* applies with necessary modifications to the French-language Board.

Visitors, religious exercises and education

**77.** Sections 50, 51 and 136 and subsection 104 (2) of the *Education Act* apply with necessary modifications to the French-language Board.

Transition, 1988 election

**78.** Despite section 277i of the *Education Act*, no members shall be elected to a French-language section of an English-language board in the regular election to be held in 1988.

Transitional period

**79.**—(1) This section applies from the 1st day of December, 1988 to the 31st day of December, 1988.

Non-application of R.S.O. 1980, c. 129, s. 277m

(2) Section 277m of the *Education Act* does not apply to the English-language boards.



- b) la section publique a les mêmes droits et obligations qu'une personne à laquelle est vendue une entreprise aux termes de cet article et qui réunit les employés d'une de ses entreprises avec ceux d'une autre de ses entreprises;
- c) tout syndicat ou conseil de syndicats intéressé a les mêmes droits et obligations qu'il aurait dans le cas d'une réunion d'employés de deux ou plusieurs entreprises aux termes de l'article 63 de cette loi.

(2) Le paragraphe (1) s'applique, avec les adaptations nécessaires, à l'égard des employés mutés à la section catholique ou au conseil plénier de la même façon qu'aux employés mutés à la section publique. Idem

(3) Les articles 69, 70 et 71 l'emportent sur le présent article à l'égard des employés décrits au présent article. Certains articles l'emportent

(4) Les articles 67, 68 et 72 ne s'appliquent pas aux employés décrits au présent article après qu'une requête est présentée à la Commission des relations de travail en vertu du présent article. Non-application de certains articles

## PARTIE XIV

### DISPOSITIONS DIVERSES, DISPOSITIONS TRANSITOIRES ET MODIFICATIONS CORRÉLATIVES

**76** La partie I de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, au Conseil de langue française. Champ d'application de la partie I du chap. 129 des L.R.O. de 1980

**77** Les articles 50, 51 et 136, et le paragraphe 104 (2) de la *Loi sur l'éducation* s'appliquent, avec les adaptations nécessaires, au Conseil de langue française. Visiteurs, exercices et enseignement religieux

**78** Malgré l'article 277i de la *Loi sur l'éducation*, aucun membre n'est élu à la section de langue française d'un conseil de langue anglaise au cours de l'élection ordinaire devant se tenir en 1988. Disposition transitoire, élection de 1988

**79** (1) Le présent article s'applique du 1<sup>er</sup> décembre 1988 au 31 décembre 1988. Période de transition

(2) L'article 277m de la *Loi sur l'éducation* ne s'applique pas aux conseils de langue anglaise. Non-application de l'art. 277m du chap. 129 des L.R.O. de 1980

When  
approval  
required  
R.S.O. 1980,  
c. 129

(3) An English-language board shall not do anything that is described in subsection 277m (1) (exclusive jurisdiction of French-language sections) of the *Education Act* or that may affect its French-language instructional units without the approval of,

- (a) the Roman Catholic sector, in the case of The Ottawa Roman Catholic Separate School Board and The Carleton Roman Catholic Separate School Board; or
- (b) the public sector, in the case of The Ottawa Board of Education and The Carleton Board of Education.

**80.—(1) Section 1 of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 40, section 3, is further amended by adding thereto the following clause:**

- (i) “French-speaking person” means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

**(2) Subsection 13 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 2 and 1982, chapter 56, section 1, is further amended by adding thereto the following paragraphs:**

- 16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

- 19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters “p”, “s”, “fp” or “fs”, as the case may be.

**(3) Section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsection:**

(3) Un conseil de langue anglaise ne doit prendre aucune mesure dans un des domaines décrits au paragraphe 277m (1) (compétence exclusive des sections de langue française) de la *Loi sur l'éducation* ni aucune mesure qui pourrait toucher ses modules scolaires de langue française sans l'approbation :

Cas où une approbation est nécessaire

L.R.O. 1980, chap. 129

- a) de la section catholique, dans le cas du Conseil des écoles séparées catholiques d'Ottawa et du Conseil des écoles séparées catholiques de Carleton;
- b) de la section publique, dans le cas du Conseil de l'éducation d'Ottawa et du Conseil de l'éducation de Carleton.

**80 (1) L'article 1 de la *Loi sur l'évaluation foncière*, qui constitue le chapitre 31 des Lois refondues de l'Ontario de 1980, tel qu'il est modifié par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction de l'alinéa suivant :**

- (i) "French-speaking person" means a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the *Canadian Charter of Rights and Freedoms* to have his or her children receive their primary and secondary school instruction in the French language in Ontario.\*

**(2) Le paragraphe 13 (1) de cette loi, tel qu'il est modifié par l'article 2 du chapitre 47 des Lois de l'Ontario de 1981 et par l'article 1 du chapitre 56 des Lois de l'Ontario de 1982, est modifié de nouveau par adjonction des dispositions suivantes :**

16. Language, if the assessment roll is for a municipality in The Regional Municipality of Ottawa-Carleton and the person is a French-speaking person.

. . . . .

19. In the case of an assessment roll for a municipality in The Regional Municipality of Ottawa-Carleton, whether a public school supporter, separate school supporter or a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, by inserting the letters "p", "s", "fp" or "fs", as the case may be.\*

**(3) L'article 15 de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 47 des Lois de l'Ontario de 1981, est modifié par adjonction du paragraphe suivant :**

Idem

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.

(4) Subsection 30 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 58, section 2, is amended by striking out “paragraphs 1 to 18 of” in the second line and by striking out clause (b) and inserting in lieu thereof:

(b) such person’s school support; and

(5) Clause 39 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 40, section 3, is amended by striking out “as a public or separate school supporter” in the first and second lines and inserting in lieu thereof “in respect of school support”.

(6) Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 10, is further amended by striking out “as a public or separate school supporter” in the amendment of 1981 and inserting in lieu thereof “in respect of school support”.

**81.** Subsection 275 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Commission  
continued

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.

**82.—**(1) Paragraph 31 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board”.

(6a) The assessment commissioner shall also accept an application in respect of a municipality in The Regional Municipality of Ottawa-Carleton as *prima facie* evidence for placing a person on the list as a supporter of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board if the application indicates that a person is a French-speaking person and a public sector supporter or a French-speaking person, a Roman Catholic and a Roman Catholic sector supporter.\* Idem

(4) Le paragraphe 30 (1) de cette loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 58 des Lois de l'Ontario de 1983, est modifié par suppression des mots «paragraphs 1 to 18 of» à la deuxième ligne et par substitution à l'alinéa (b) de ce qui suit :

(b) such person's school support; and\*

. . . . .

(5) L'alinéa 39 (1) c) de cette loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 40 des Lois de l'Ontario de 1982, est modifié par substitution, aux mots «as a public or separate school supporter» aux première et deuxième lignes, des mots «in respect of school support».

(6) Le paragraphe 50 (1) de cette loi, tel qu'il est modifié par l'article 10 du chapitre 47 des Lois de l'Ontario de 1981, est modifié de nouveau par substitution, aux mots «as a public or separate school supporter», des mots «in respect of school support».

**81** Le paragraphe 275 (1) de la *Loi sur l'éducation*, qui constitue le chapitre 129 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(1) The Languages of Instruction Commission of Ontario is hereby continued and shall be composed of nine members appointed by the Lieutenant Governor in Council, at least four of whom shall be French-speaking and at least four of whom shall be English-speaking, and one of the members shall be appointed as chairman.\* Commission continued

**82** (1) La disposition 31 de l'article 1 de la *Loi sur les élections municipales*, qui constitue le chapitre 308 des Lois refondues de l'Ontario de 1980, est modifiée par adjonction des mots «or an elector of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board».

(2) Section 19 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following clause:

1988, c. 47

- (g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.

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

1988, c. 47

- 6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

Commence-  
ment

**83.**—(1) This Act, except sections 15 and 60, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 15 and 60 shall be deemed to have come into force on the 30th day of April, 1988.

Short title

**84.** The short title of this Act is the *Ottawa-Carleton French-Language School Board Act, 1988*.

**(2) L'article 19 de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986, est modifié de nouveau par adjonction de l'alinéa suivant :**

- (g) who is an elector for the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, that the elector is such an elector.\* 1988, c. 47

**(3) Le paragraphe 49 (1) de cette loi, tel qu'il est modifié par l'article 12 du chapitre 29 des Lois de l'Ontario de 1986 et par l'article 11 du chapitre 12 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction de la disposition suivante :**

- 6b. Where the election is to the office of member of the Roman Catholic or public sector of The Ottawa-Carleton French-language School Board under the *Ottawa-Carleton French-Language School Board Act, 1988*, to be elected by electors entitled to elect members of that sector in a municipality or in a part thereof, or in a combination of municipalities in The Regional Municipality of Ottawa-Carleton, a public sector or Roman Catholic sector elector is entitled to as many votes as there are members of that sector to be elected by such electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.\* 1988, c. 47

**83** (1) La présente loi, à l'exception des articles 15 et 60, entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

(2) Les articles 15 et 60 sont réputés être entrés en vigueur le 30 avril 1988. Idem

**84** Le titre abrégé de la présente loi est *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton*. Titre abrégé

\*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.





# Bill 110

## **An Act to declare Remembrance Day as a Holiday for Veterans**

Mr. Henderson

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*1st Reading*      April 11th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

### EXPLANATORY NOTE

The purpose of the Bill is to make Remembrance Day a holiday for veterans.

**Bill 110**

**1988**

**An Act to declare  
Remembrance Day as a Holiday for Veterans**

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, “veteran” means a person who, while in active service during any war, Definition
- (a) was in His or Her Majesty’s naval, army or air forces or in the Canadian or British Merchant Marine; or
  - (b) was in any naval, army or air force that is designated in the regulations.
- 2.** Remembrance Day, being the 11th day of November in each year, is a public holiday for veterans for the purposes of Part VII of the *Employment Standards Act*. Remembrance Day holiday for veterans  
R.S.O. 1980, c. 137
- 3.** The Lieutenant Governor in Council may make regulations designating any naval, army or air force that was allied with His or Her Majesty’s forces for the purposes of section 1. Regulations
- 4.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment
- 5.** The short title of this Act is the *Veterans’ Remembrance Day Act, 1988*. Short title



# Bill 111

## **An Act to amend the Legislative Assembly Act**

Mr. Swart

---

*1st Reading*      April 13th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

## EXPLANATORY NOTES

The purpose of the proposed section 1 is to provide that the Legislature sit part of every month during the year instead of the current policy whereby it may sit continuously for a four-month period in the spring and two months in the fall and be recessed or adjourned for the rest of the year.

The proposed section 2 declares that the designations "Member of the Legislative Assembly" and "M.L.A." are the official designations of persons who are elected to the Legislative Assembly. It provides that only members of the Legislative Assembly are entitled to use either of the official designations in association with themselves while sitting as elected members of the Assembly and during the succeeding election period. The intent is to have the designation conform more closely to designations used in other provinces and to eliminate confusion between the designations M.P.P. and M.P.

**Bill 111**

**1988**

**An Act to amend the Legislative Assembly Act**

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

**1. Section 4 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:** s. 4,  
re-enacted

**4.—(1)** There shall be a session of the Legislature once at least in every year, and not more than one calendar month shall intervene between the last sitting of the Legislature in one session and its first sitting in the next. Yearly  
session

(2) During session, the Legislature shall sit at least once every month so that one calendar month does not intervene between one sitting and the next. Monthly  
sittings

**2. The said Act is amended by adding thereto the following section:** s. 17a,  
enacted

**17a.—(1)** The designations “Member of the Legislative Assembly” and “M.L.A.” shall be the official designations of a person who is elected to the Assembly and no person shall use either of the official designations in association with himself or otherwise purport to be a member of the Assembly unless that person is an elected member of the Assembly. Official  
designation  
of members

(2) Nothing in subsection (1) prohibits a person who is a member of the Assembly from using the official designation “Member of the Legislative Assembly” or “M.L.A.” during the election period immediately following the dissolution of the Legislature to which the person was elected but that person is not entitled to use either of the official designations after the polling day in the election unless the person has been elected to the succeeding Legislature. Idem

Commence-  
ment

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

Short title

**4. The short title of this Act is the *Legislative Assembly Amendment Act, 1988*.**



# Bill 112

## **An Act to amend the Legislative Assembly Act**

Mr. Epp

---

*1st Reading*      April 13th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

#### EXPLANATORY NOTE

The Bill would prohibit the service of civil process in the Legislative Building, a room or place in which a committee of the Assembly is meeting or in an office of a member of the Assembly (other than a constituency office) that is designated by the Speaker.

Breach of the prohibition would be dealt with as a contempt of the Assembly.

# Bill 112

1988

## An Act to amend the Legislative Assembly Act

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

**1.** Section 38 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

**38.** No person shall make a personal service that is required or authorized by law in a civil matter upon another person, Service of civil process

- (a) in the Legislative Building;
- (b) in a room or place in Ontario in which a duly constituted committee of the Assembly is meeting; or
- (c) in an office of a member of the Assembly, other than a constituency office, that is situate outside the Legislative Building, and that is designated by the Speaker for the purposes of this section.

**2.** Section 39 of the said Act is amended by striking out “the periods mentioned in section 38” in the first line and inserting in lieu thereof “a session of the Legislature or during the twenty days preceding or the twenty days following a session”.

**3.** Paragraph 11 of subsection 45 (1) of the said Act is repealed and the following substituted therefor:

- 11. Making a service upon a person in contravention of section 38. Service of civil process

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

**5.** The short title of this Act is the *Legislative Assembly Amendment Act, 1988*. Short title



# Bill 113

## **An Act to amend the Retail Business Holidays Act**

The Hon. J. Smith  
*Solicitor General*

---

*1st Reading*      April 25th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

## EXPLANATORY NOTES

**SECTION 1.** The definition of "holiday" is re-enacted to replace the term "Dominion Day" with "Canada Day" and to replace the term "Boxing Day" with "the 26th day of December".

**SECTION 2.** Subsection 2 (1) is re-enacted to more closely parallel the language used in subsection 2 (2). Subsection 2 (1) prohibits every person carrying on a retail business from,

- (a) selling or offering for sale any goods or services by retail on a holiday; and
- (b) admitting members of the public to a retail business establishment on a holiday.

**SECTION 3.** As the Act now reads only pharmacies that have a maximum of four employees are allowed to be open on Sundays. This test is replaced by the requirement that the size of the pharmacy not exceed 5,000 square feet.

The present Sunday exemption set out in subsection 3 (4) is replaced by a new provision set out in the proposed section 5 of the Act as set out in section 4 of the Bill.

**SECTION 4.** The proposed re-enactment of section 4 permits a municipality to pass by-laws allowing retail business establishments to be open on holidays or requiring them to be closed on holidays. The Lieutenant Governor in Council will have similar powers with respect to territory without municipal organization.

The proposed section 5 would allow any retail business to remain open on Sundays if it always closes throughout another day of the week by reason of the religion of the owner.

Under the proposed section 5a any provision in a lease or other agreement that requires a retail business to be open on holidays is of no effect.

**SECTION 5.** The proposed subsection 6 (1) of the Act would make any by-law passed by a municipality under any other Act invalid to the extent that it requires a retail business establishment to be closed on holidays. Subsection 6 (2) would permit existing by-laws respecting the opening or closing of retail business establishments to continue in force until the 1st day of January, 1994 or until repealed or until a new by-law is passed under section 4, whichever occurs first.

**SECTION 6.** The penalty provisions are set out in section 7 of the Act. The maximum penalty is increased from \$10,000 to \$50,000 for a violation of section 2 or of a regulation made under the Act. A municipality has the power to provide similar penalties in its by-laws. For the purpose of determining the amount of the fine a court shall consider any evidence respecting gross sales of the retail business on the holiday on which the contravention occurred.

Subsection 7 (4) would permit signs or advertisements giving the hours of a retail business establishment to be admissible as evidence.

The new subsection 7 (5) deems the total area of a retail business establishment used to serve the public or for selling or displaying to the public on a holiday to be the greater of,

- (a) the total area actually used on a holiday; and
- (b) the total area normally used on days other than holidays.

Subsection 7 (6) delays the coming into force of subsection 7 (5) for one year, except for pharmacies.

Section 8 is a new section which would allow a court to make an order closing a retail business establishment on a holiday to ensure compliance with the Act or a by-law or regulation under the Act.





**Bill 113****1988****An Act to amend the Retail Business Holidays 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 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

- (a) "holiday" means,
  - (i) New Year's Day,
  - (ii) Good Friday,
  - (iii) Victoria Day,
  - (iv) Canada Day,
  - (v) Labour Day,
  - (vi) Thanksgiving Day,
  - (vii) Christmas Day,
  - (viii) the 26th day of December,
  - (ix) Sunday, and
  - (x) any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of this Act;
- (aa) "municipality" means, except in section 6,
  - (i) a local municipality, other than a local municipality within a metropolitan, regional or district municipality or the County of Oxford,

- (ii) a metropolitan, regional or district municipality and the County of Oxford.

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

Prohibition

(1) No person carrying on a retail business in a retail business establishment shall,

- (a) sell or offer for sale any goods or services therein by retail; or
- (b) admit members of the public thereto,

on a holiday.

**3.—(1) Clause 3 (2) (c) of the said Act is repealed and the following substituted therefor:**

- (c) the total area used for serving the public or for selling or displaying to the public in the establishment is less than 5,000 square feet.

**(2) Subsection 3 (4) of the said Act is repealed.**

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

Municipal powers

**4.—(1)** Despite sections 2 and 3, the council of a municipality may by by-law permit retail business establishments to be open on any holiday or may require that retail business establishments be closed on any holiday.

Regulations, territory without municipal organization

(2) The Lieutenant Governor in Council may by regulation, in respect of retail business establishments in territory without municipal organization, exercise the same powers that a council of a municipality may by by-law exercise under subsection (1).

Application of by-law or regulation

(3) A by-law or regulation under this section may be restricted to one or more retail business establishments or to any class or classes of retail business establishment as specified in the by-law or regulation.

Contents of by-laws and regulations

(4) A by-law or regulation under this section,

- (a) may apply to any part or parts of the municipality or territory;

- (b) may limit the opening of retail business establishments on holidays to specific times or to a certain number of hours;
- (c) may permit the opening or require the closing of retail business establishments on certain holidays and not on others;
- (d) may restrict the opening of retail business establishments on holidays to specific periods of the year or require the closing of business establishments on holidays during specific periods of the year;
- (e) may classify retail business establishments by size, number of persons employed, character of business, geographic location or any other criteria.

**5.—(1)** Despite any other provision of this or any other Act or the by-laws or regulations under this or any other Act, a retail business may be carried on in a retail business establishment on a Sunday if the retail business is always closed to the public throughout another day of the week by reason of the religion of the owner of the retail business. Sunday exception

**(2)** For the purpose of subsection (1), “religion of the owner” means, Definition

- (a) in the case of a sole proprietorship, the religion of the sole proprietor;
- (b) in the case of a partnership, the religion named in a written agreement between the partners which is the religion of one of the partners;
- (c) in the case of a corporation, the religion named in the by-laws of the corporation.

**(3)** The exception set out in subsection (1) does not apply to a corporation that is the affiliate of another corporation unless all the retail business establishments in Ontario of the corporation and its affiliates close on the same day. Affiliated corporation

**(4)** For the purposes of this section, Deemed affiliation

- (a) a corporation shall be deemed to be affiliated with another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person; and

- (b) the affiliates of every corporation shall be deemed to be affiliated with all other corporations with which the corporation is affiliated.

Deemed  
control

(5) For the purposes of this section, a corporation shall be deemed to be controlled by a person if,

- (a) securities of the corporation to which are attached more than 50 per cent of the votes that may be cast to elect directors of the corporation are held other than by way of security only by or for the benefit of that person; and
- (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation.

Deemed  
subsidiaries

(6) For the purposes of this section, a corporation shall be deemed to be a subsidiary of another corporation if,

- (a) it is controlled by,
  - (i) that other,
  - (ii) that other and one or more corporations each of which is controlled by that other, or
  - (iii) two or more corporations each of which is controlled by that other; or
- (b) it is a subsidiary within the meaning of clause (a) of a corporation that is that other's subsidiary.

Provisions  
requiring  
holiday  
openings  
invalid

**5a.** A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on a holiday is of no effect even if the lease or agreement was made before the coming into force of this section.

**5. Section 6 of the said Act is repealed and the following substituted therefor:**

Invalidity of  
certain  
municipal  
by-laws

**6.—(1)** Subject to subsection (2), a by-law of a municipality passed under any other Act is invalid to the extent that it requires the closing of a retail business establishment on a holiday.

Transition

(2) A by-law of a municipality that was in force under this or any other Act immediately before the coming into force of this subsection and that relates to the opening or closing of a retail business establishment on holidays continues in force

until the 1st day of January, 1994 or until repealed or until a by-law is passed under section 4, whichever occurs first.

(3) In this section, "municipality" means any municipality and includes a metropolitan, district or regional municipality and the County of Oxford. Definition

**6. Section 7 of the said Act is repealed and the following substituted therefor:**

7.—(1) Every person who contravenes section 2 or a regulation under section 4 is guilty of an offence and on conviction is liable to a fine of not more than \$50,000. Penalty

(2) A by-law under subsection 4 (1) may provide that any person who contravenes the by-law is guilty of an offence and may further provide for the imposition of fines of not more than \$50,000 on every person who is convicted of an offence under the by-law. Idem, municipal by-laws

(3) In determining the amount of the fine, the court shall take into consideration any evidence respecting the gross sales in the retail business establishment on the holiday on which the contravention occurred. Gross sales to be considered in determining fines

(4) A sign or advertisement giving the hours of a retail business establishment is admissible as evidence that the retail business establishment was open during those hours. Advertisements admissible as evidence

(5) For the purpose of enforcing this Act or a by-law or regulation under this Act, the total area of a retail business establishment used for serving the public or for selling or displaying to the public on a holiday shall be deemed to be the greater of, Determination of total area of a retail business establishment

(a) the total area actually used on a holiday for serving the public or for selling or displaying to the public; and

(b) the total area normally used for serving the public or for selling or displaying to the public on days other than a holiday.

(6) Subsection (5) does not apply to any retail business establishment, other than a pharmacy, until the 365th day following the day this subsection comes into force. When subs. (5) to apply

8.—(1) Upon the application of counsel for the Attorney General or of a municipality to the Supreme Court, the court may order that a retail business establishment close on a holi- Court orders

day to ensure compliance with this Act or a by-law or regulation under this Act.

Idem

(2) An order under subsection (1) is in addition to any other penalty that may be imposed and may be made whether or not proceedings have been commenced in the Provincial Offences Court for a contravention of section 2 or of a by-law or regulation under this Act.

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 *Retail Business Holidays Amendment Act, 1988*.**







# Bill 113

## **An Act to amend the Retail Business Holidays Act**

The Hon. J. Smith  
*Solicitor General*

---

*1st Reading*      April 25th, 1988  
*2nd Reading*     June 20th, 1988  
*3rd Reading*  
*Royal Assent*

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

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## EXPLANATORY NOTES

**SECTION 1.** The definition of "holiday" is re-enacted to replace the term "Dominion Day" with "Canada Day" and to replace the term "Boxing Day" with "the 26th day of December".

**SECTION 2.** Subsection 2 (1) is re-enacted to more closely parallel the language used in subsection 2 (2). Subsection 2 (1) prohibits every person carrying on a retail business from,

- (a) selling or offering for sale any goods or services by retail on a holiday; and
- (b) admitting members of the public to a retail business establishment on a holiday.

**SECTION 3.** As the Act now reads only pharmacies that have a maximum of four employees are allowed to be open on holidays. This test is replaced by the requirement that the size of the pharmacy not exceed 7,500 square feet. There is a grace period of one year for the size restriction to be effective.

The present Sunday exemption set out in subsection 3 (4) is replaced by a new provision set out in the proposed section 5 of the Act as set out in section 4 of the Bill.

**SECTION 4.** The proposed re-enactment of section 4 permits a municipality to pass by-laws allowing retail business establishments to be open on holidays or requiring them to be closed on holidays. The Lieutenant Governor in Council will have similar powers with respect to territory without municipal organization. Before passing a by-law a municipality is required to hold a public meeting. It may also establish and make public a plan respecting holiday openings.

The proposed section 5 would allow any retail business to remain open on Sundays if it always closes throughout another day of the week by reason of the religion of the owner.

Under the proposed section 5a any provision in a lease or other agreement that requires a retail business to be open on holidays is of no effect.

**SECTION 5.** The proposed subsection 6 (1) of the Act would make any by-law passed by a municipality under any other Act invalid to the extent that it requires a retail business establishment to be closed on holidays. Subsection 6 (2) would permit existing by-laws respecting the opening or closing of retail business establishments to continue in force until the 1st day of January, 1994 or until repealed, whichever occurs first.

**SECTION 6.** The penalty provisions are set out in section 7 of the Act. The maximum penalty is increased from \$10,000 to the greater of \$50,000 or the gross sales on the date of the violation. A municipality has the power to provide similar penalties in its by-laws. For the purpose of determining the amount of the fine a court shall consider any evidence respecting gross sales of the retail business on the holiday on which the contravention occurred.

Subsection 7 (5) would permit signs or advertisements giving the hours of a retail business establishment to be admissible as evidence.

The new subsection 7 (6) deems the total area of a retail business establishment used to serve the public or for selling or displaying to the public on a holiday to be the greater of,

- (a) the total area actually used on a holiday; and
- (b) the total area normally used on days other than holidays.

Subsection 7 (7) delays the coming into force of subsection 7 (6) for one year, except for pharmacies.

Section 8 is a new section which would allow a court to make an order closing a retail business establishment on a holiday to ensure compliance with the Act or a by-law or regulation under the Act.



**Bill 113****1988****An Act to amend the Retail Business Holidays 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 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

- (a) "holiday" means,
  - (i) New Year's Day,
  - (ii) Good Friday,
  - (iii) Victoria Day,
  - (iv) Canada Day,
  - (v) Labour Day,
  - (vi) Thanksgiving Day,
  - (vii) Christmas Day,
  - (viii) the 26th day of December,
  - (ix) Sunday, and
  - (x) any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of this Act;
- (aa) "municipality" means, except in section 6,
  - (i) a local municipality, other than a local municipality within a metropolitan, regional or district municipality or the County of Oxford,

(ii) a metropolitan, regional or district municipality and the County of Oxford.

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

Prohibition

(1) No person carrying on a retail business in a retail business establishment shall,

(a) sell or offer for sale any goods or services therein by retail; or

(b) admit members of the public thereto,

on a holiday.

**3.—(1) Clause 3 (2) (c) of the said Act is repealed and the following substituted therefor:**

(c) the total area used for serving the public or for selling or displaying to the public in the establishment is less than 7,500 square feet.



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

Transition

(4) Despite clause 3 (2) (c), until the 365th day following the day this subsection comes into force, the maximum total area that may be used in a pharmacy for serving the public or for selling or displaying to the public may exceed 7,500 square feet.

(3) Subsection 3 (8) of the said Act is repealed. 

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

Municipal powers

**4.—(1)** Despite sections 2 and 3, the council of a municipality may by by-law permit retail business establishments to be open on any holiday or may require that retail business establishments be closed on any holiday.



Public meeting

(2) Before passing a by-law under subsection (1), the council of a municipality,

(a) shall hold a public meeting in respect of the proposed by-law;

(b) shall publish notice of the public meeting in a newspaper having general circulation in the municipality

at least thirty days before the meeting is to be held;  
and

- (c) shall permit any person who attends the public meeting the opportunity to make representations in respect of the proposed by-law. ▲

▼ (3) The Lieutenant Governor in Council may by regulation, in respect of retail business establishments in territory without municipal organization, exercise the same powers that a council of a municipality may by by-law exercise under subsection (1).

Regulations, territory without municipal organization

▼ (4) A by-law or regulation under this section does not apply so as to prevent the sale or offering for sale of goods and services exempted under subsection 3 (5) or (7) from the operation of section 2. ▲

Limitation

▼ (5) A by-law or regulation under this section may be restricted to one or more retail business establishments or to any class or classes of retail business establishment as specified in the by-law or regulation.

Application of by-law or regulation

▼ (6) A by-law or regulation under this section,

Contents of by-laws and regulations

- (a) may apply to any part or parts of the municipality or territory;
- (b) may limit the opening of retail business establishments on holidays to specific times or to a certain number of hours;
- (c) may permit the opening or require the closing of retail business establishments on certain holidays and not on others;
- (d) may restrict the opening of retail business establishments on holidays to specific periods of the year or require the closing of business establishments on holidays during specific periods of the year;
- (e) may classify retail business establishments by size, number of persons employed, character of business, geographic location or any other criteria.

▼ (7) The council may establish a plan setting out the criteria to be considered by it in determining whether a by-law should be passed under subsection (1).

Establishment of plan

Plan to be  
made public

(8) If the council adopts a plan, it shall ensure that the plan is made available to the public by publishing it in a newspaper having general circulation in the municipality. ▲

Sunday  
exception

5.—(1) Despite any other provision of this or any other Act or the by-laws or regulations under this or any other Act, a retail business may be carried on in a retail business establishment on a Sunday if the retail business is always closed to the public throughout another day of the week by reason of the religion of the owner of the retail business.

Definition

(2) For the purpose of subsection (1), “religion of the owner” means,

- (a) in the case of a sole proprietorship, the religion of the sole proprietor;
- (b) in the case of a partnership, the religion named in a written agreement between the partners which is the religion of one of the partners;
- (c) in the case of a corporation, the religion named in the by-laws of the corporation.

Affiliated  
corporation

(3) The exception set out in subsection (1) does not apply to a corporation that is the affiliate of another corporation unless all the retail business establishments in Ontario of the corporation and its affiliates close on the same day.

Deemed  
affiliation

(4) For the purposes of this section,

- (a) a corporation shall be deemed to be affiliated with another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person; and
- (b) the affiliates of every corporation shall be deemed to be affiliated with all other corporations with which the corporation is affiliated.

Deemed  
control

(5) For the purposes of this section, a corporation shall be deemed to be controlled by a person if,

- (a) securities of the corporation to which are attached more than 50 per cent of the votes that may be cast to elect directors of the corporation are held other than by way of security only by or for the benefit of that person; and



(b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation.

(6) For the purposes of this section, a corporation shall be deemed to be a subsidiary of another corporation if, Deemed subsidiaries

(a) it is controlled by,

(i) that other,

(ii) that other and one or more corporations each of which is controlled by that other, or

(iii) two or more corporations each of which is controlled by that other; or

(b) it is a subsidiary within the meaning of clause (a) of a corporation that is that other's subsidiary.

**5a.** A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on a holiday is of no effect even if the lease or agreement was made before the coming into force of this section. Provisions requiring holiday openings invalid

**5. Section 6 of the said Act is repealed and the following substituted therefor:**

**6.—(1)** Subject to subsection (2), a by-law of a municipality passed under any other Act is invalid to the extent that it requires the closing of a retail business establishment on a holiday. Invalidity of certain municipal by-laws

**(2)** A by-law of a municipality that was in force under this or any other Act immediately before the coming into force of this subsection and that relates to the opening or closing of a retail business establishment on holidays continues in force until the 1st day of January, 1994 or until repealed, whichever occurs first. Transition

**(3)** In this section, "municipality" means any municipality and includes a metropolitan, district or regional municipality and the County of Oxford. Definition

**6. Section 7 of the said Act is repealed and the following substituted therefor:**

**7.—(1)** Every person who contravenes section 2 or a regulation under section 4 is guilty of an offence and on conviction is liable to a fine of not more than the greater of, Penalty

(a) \$50,000; or

(b) the gross sales in the retail business establishment on the holiday on which the contravention occurred.

Idem, municipal laws

(2) A by-law under subsection 4 (1) requiring a retail business establishment to be closed on a holiday shall provide that any person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not more than the greater of,

(a) \$50,000; or

(b) the gross sales in the retail business establishment on the holiday on which the contravention occurred.

Idem, coercion or counselling

(3) Every person who coerces, requires or counsels another person to contravene section 2, a regulation under section 4 or a by-law under subsection 4 (1) is guilty of an offence and on conviction is liable to a fine of not more than the greater of,

(a) \$50,000; or

(b) the gross sales in the retail business establishment on the holiday in respect of which the offence under this subsection occurred. ▲

Gross sales to be considered in determining fines

(4) In determining the amount of the fine, the court shall take into consideration any evidence respecting the gross sales in the retail business establishment on the holiday on which the contravention occurred.

Advertisements admissible as evidence

(5) A sign or advertisement giving the hours of a retail business establishment is admissible as evidence that the retail business establishment was open during those hours.

Determination of total area of a retail business establishment

(6) For the purpose of enforcing this Act or a by-law or regulation under this Act, the total area of a retail business establishment used for serving the public or for selling or displaying to the public on a holiday shall be deemed to be the greater of,

(a) the total area actually used on a holiday for serving the public or for selling or displaying to the public; and

- (b) the total area normally used for serving the public or for selling or displaying to the public on days other than a holiday.

(7) Subsection (6) does not apply to any retail business establishment, other than a pharmacy, until the 365th day following the day this subsection comes into force. When subs. (6) to apply

**8.—(1)** Upon the application of counsel for the Attorney General or of a municipality to the Supreme Court, the court may order that a retail business establishment close on a holiday to ensure compliance with this Act or a by-law or regulation under this Act. Court orders

(2) An order under subsection (1) is in addition to any other penalty that may be imposed and may be made whether or not proceedings have been commenced in the Provincial Offences Court for a contravention of section 2 or of a by-law or regulation under this Act. Idem

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

**8. The short title of this Act is the *Retail Business Holidays Amendment Act, 1989.*** Short title



# Bill 113

*(Chapter 3  
Statutes of Ontario, 1989)*

## **An Act to amend the Retail Business Holidays Act**

The Hon. J. Smith  
*Solicitor General*

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<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	June 20th, 1988
<i>3rd Reading</i>	February 7th, 1989
<i>Royal Assent</i>	February 27th, 1989

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**Bill 113****1988****An Act to amend the Retail Business Holidays 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 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

- (a) "holiday" means,
  - (i) New Year's Day,
  - (ii) Good Friday,
  - (iii) Victoria Day,
  - (iv) Canada Day,
  - (v) Labour Day,
  - (vi) Thanksgiving Day,
  - (vii) Christmas Day,
  - (viii) the 26th day of December,
  - (ix) Sunday, and
  - (x) any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of this Act;
- (aa) "municipality" means, except in section 6,
  - (i) a local municipality, other than a local municipality within a metropolitan, regional or district municipality or the County of Oxford,

- (ii) a metropolitan, regional or district municipality and the County of Oxford.

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

Prohibition

(1) No person carrying on a retail business in a retail business establishment shall,

- (a) sell or offer for sale any goods or services therein by retail; or
- (b) admit members of the public thereto,

on a holiday.

**3.—(1) Clause 3 (2) (c) of the said Act is repealed and the following substituted therefor:**

- (c) the total area used for serving the public or for selling or displaying to the public in the establishment is less than 7,500 square feet.

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

Transition

(4) Despite clause (2) (c), until the 365th day following the day this subsection comes into force, the maximum total area that may be used in a pharmacy for serving the public or for selling or displaying to the public may exceed 7,500 square feet.

**(3) Subsection 3 (8) of the said Act is repealed.**

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

Municipal powers

4.—(1) Despite sections 2 and 3, the council of a municipality may by by-law permit retail business establishments to be open on any holiday or may require that retail business establishments be closed on any holiday.

Public meeting

(2) Before passing a by-law under subsection (1), the council of a municipality,

- (a) shall hold a public meeting in respect of the proposed by-law;
- (b) shall publish notice of the public meeting in a newspaper having general circulation in the municipality



at least thirty days before the meeting is to be held;  
and

- (c) shall permit any person who attends the public meeting the opportunity to make representations in respect of the proposed by-law.

(3) The Lieutenant Governor in Council may by regulation, in respect of retail business establishments in territory without municipal organization, exercise the same powers that a council of a municipality may by by-law exercise under subsection (1). Regulations, territory without municipal organization

(4) A by-law or regulation under this section does not apply so as to prevent the sale or offering for sale of goods and services exempted under subsection 3 (5) or (7) from the operation of section 2. Limitation

(5) A by-law or regulation under this section may be restricted to one or more retail business establishments or to any class or classes of retail business establishment as specified in the by-law or regulation. Application of by-law or regulation

(6) A by-law or regulation under this section, Contents of by-laws and regulations

- (a) may apply to any part or parts of the municipality or territory;
- (b) may limit the opening of retail business establishments on holidays to specific times or to a certain number of hours;
- (c) may permit the opening or require the closing of retail business establishments on certain holidays and not on others;
- (d) may restrict the opening of retail business establishments on holidays to specific periods of the year or require the closing of retail business establishments on holidays during specific periods of the year;
- (e) may classify retail business establishments by size, number of persons employed, character of business, geographic location or any other criteria.

(7) The council may establish a plan setting out the criteria to be considered by it in determining whether a by-law should be passed under subsection (1). Establishment of plan

Plan to be  
made public

(8) If the council adopts a plan, it shall ensure that the plan is made available to the public by publishing it in a newspaper having general circulation in the municipality.

Sunday  
exception

5.—(1) Despite any other provision of this or any other Act or the by-laws or regulations under this or any other Act, a retail business may be carried on in a retail business establishment on a Sunday if the retail business establishment is always closed to the public throughout another day of the week by reason of the religion of the owner of the retail business.

Definition

(2) For the purpose of subsection (1), “religion of the owner” means,

- (a) in the case of a sole proprietorship, the religion of the sole proprietor;
- (b) in the case of a partnership, the religion named in a written agreement between the partners which is the religion of one of the partners;
- (c) in the case of a corporation, the religion named in the by-laws of the corporation.

Affiliated  
corporation

(3) The exception set out in subsection (1) does not apply to a corporation that is the affiliate of another corporation unless all the retail business establishments in Ontario of the corporation and its affiliates close on the same day.

Deemed  
affiliation

(4) For the purposes of this section,

- (a) a corporation shall be deemed to be affiliated with another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person; and
- (b) the affiliates of every corporation shall be deemed to be affiliated with all other corporations with which the corporation is affiliated.

Deemed  
control

(5) For the purposes of this section, a corporation shall be deemed to be controlled by a person if,

- (a) securities of the corporation to which are attached more than 50 per cent of the votes that may be cast to elect directors of the corporation are held other than by way of security only by or for the benefit of that person; and

- (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation.

(6) For the purposes of this section, a corporation shall be deemed to be a subsidiary of another corporation if, Deemed subsidiaries

- (a) it is controlled by,
- (i) that other,
  - (ii) that other and one or more corporations each of which is controlled by that other, or
  - (iii) two or more corporations each of which is controlled by that other; or
- (b) it is a subsidiary within the meaning of clause (a) of a corporation that is that other's subsidiary.

**5a.** A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on a holiday is of no effect even if the lease or agreement was made before the coming into force of this section. Provisions requiring holiday openings invalid

**5. Section 6 of the said Act is repealed and the following substituted therefor:**

**6.—(1)** Subject to subsection (2), a by-law of a municipality passed under any other Act is invalid to the extent that it requires the closing of a retail business establishment on a holiday. Invalidity of certain municipal by-laws

(2) A by-law of a municipality that was in force under this or any other Act immediately before the coming into force of this subsection and that relates to the opening or closing of a retail business establishment on holidays continues in force until the 1st day of January, 1994 or until repealed, whichever occurs first. Transition

(3) In this section, "municipality" means any municipality and includes a metropolitan, district or regional municipality and the County of Oxford. Definition

**6. Section 7 of the said Act is repealed and the following substituted therefor:**

**7.—(1)** Every person who contravenes section 2 or a regulation under section 4 is guilty of an offence and on conviction is liable to a fine of not more than the greater of, Penalty

(a) \$50,000; or

(b) the gross sales in the retail business establishment on the holiday on which the contravention occurred.

Idem,  
municipal  
laws

(2) A by-law under subsection 4 (1) requiring a retail business establishment to be closed on a holiday shall provide that any person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not more than the greater of,

(a) \$50,000; or

(b) the gross sales in the retail business establishment on the holiday on which the contravention occurred.

Idem,  
coercion or  
counselling

(3) Every person who coerces, requires or counsels another person to contravene section 2, a regulation under section 4 or a by-law under subsection 4 (1) is guilty of an offence and on conviction is liable to a fine of not more than the greater of,

(a) \$50,000; or

(b) the gross sales in the retail business establishment on the holiday in respect of which the offence under this subsection occurred.

Gross sales  
to be  
considered in  
determining  
fines

(4) In determining the amount of the fine, the court shall take into consideration any evidence respecting the gross sales in the retail business establishment on the holiday on which the contravention occurred.

Advertise-  
ments  
admissible as  
evidence

(5) A sign or advertisement giving the hours of a retail business establishment is admissible as evidence that the retail business establishment was open during those hours.

Determi-  
nation of  
total area  
of a retail  
business  
establishment

(6) For the purpose of enforcing this Act or a by-law or regulation under this Act, the total area of a retail business establishment used for serving the public or for selling or displaying to the public on a holiday shall be deemed to be the greater of,

(a) the total area actually used on a holiday for serving the public or for selling or displaying to the public; and

- (b) the total area normally used for serving the public or for selling or displaying to the public on days other than a holiday.

(7) Subsection (6) does not apply to any retail business establishment, other than a pharmacy, until the 365th day following the day this subsection comes into force. When subs. (6) to apply

**8.—(1)** Upon the application of counsel for the Attorney General or of a municipality to the Supreme Court, the court may order that a retail business establishment close on a holiday to ensure compliance with this Act or a by-law or regulation under this Act. Court orders

(2) An order under subsection (1) is in addition to any other penalty that may be imposed and may be made whether or not proceedings have been commenced in the Provincial Offences Court for a contravention of section 2 or of a by-law or regulation under this Act. Idem

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

**8.** The short title of this Act is the *Retail Business Holidays Amendment Act, 1989*. Short title









# Bill 114

## **An Act to amend the Employment Standards Act**

The Hon. G. Sorbara  
*Minister of Labour*

---

*1st Reading*      April 25th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

**SECTION 1.** Boxing Day will be included as a public holiday for the purposes of the *Employment Standards Act*.

**SECTION 2.** Employees in retail business establishments as defined in the *Retail Business Holidays Act* that are permitted to open on Sunday will be able to refuse work that they consider unreasonable. If the employer and employee disagree on what constitutes unreasonable Sunday work, either of them will be able to ask for mediation by an employment standards officer. An employee may also ask for mediation if he or she is punished or otherwise treated improperly for refusing Sunday work that the employee considers unreasonable. If no settlement is reached, the matter will be referred to an independent referee for determination.

**Bill 114**

**1988**

**An Act to amend the Employment Standards 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 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Christmas Day” in the third line “the 26th day of December”.

**2.** Part XI-B of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1, is amended by adding thereto the following sections:

**39g.**—(1) This section and sections 39h to 39k apply only to retail business establishments, as defined in section 1 of the *Retail Business Holidays Act*, and to the employees and employers in such retail business establishments and to persons acting on behalf of such employers.

Application  
of sections  
39g to 39k  
R.S.O. 1980,  
c. 453

(2) In sections 39h and 39k,

Definitions

“employee” means an employee to whom the section applies;

“employer” means an employer to whom the section applies.

**39h.** Except as provided in this Part, an employee may refuse any assignment of Sunday work that the employee considers unreasonable.

Right to  
refuse  
Sunday work

**39i.**—(1) No employer or person acting on behalf of an employer shall,

Prohibition

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employee has refused an assignment of Sunday work that the employee considers unreasonable.

Exception

(2) Subsection (1) does not apply if, following an agreement between the employee and employer reached with the assistance of an employment standards officer under subsection 39j (3), or if, following the decision of a referee under subsection 39k (3), the employee fails to work in accordance with the agreement or decision.

Role of  
employment  
standards  
officer

**39j.**—(1) If an employee and an employer dispute that an assignment of Sunday work is unreasonable or if an employee has refused an assignment of Sunday work on the basis that it was unreasonable, either the employee or the employer may apply to the Director for the appointment of an employment standards officer to inquire into and endeavour to effect a settlement of the matter.

Idem

(2) If an employee is of the opinion that the employee's employer or a person acting on the employer's behalf has contravened subsection 39i (1) against the employee, the employee may apply to the Director for the appointment of an employment standards officer to inquire into and endeavour to effect a settlement of the matter.

Idem

(3) Upon receipt of an application under subsection (1) or (2), the Director shall forthwith appoint an employment standards officer who shall forthwith inquire into and endeavour to effect a settlement of the matter.

Hearing by  
referee

**39k.**—(1) If, following an inquiry under subsection 39j (3), an employment standards officer reports to the Director that a settlement cannot be reached, the Director shall appoint a referee from the panel of referees and the referee shall convene a hearing as soon as is practicable for the purpose of determining the matter.

Determi-  
nation of  
unreason-  
ableness

(2) In a hearing under this section, the referee shall determine whether the disputed Sunday work assignment is or was unreasonable and, without restricting the generality of the foregoing, may take into account,

- (a) the terms of a collective agreement that specifically address Sunday work, if the employee is a member of the bargaining unit;
- (b) the existence of a premium pay arrangement for Sunday work by the employee that is not less than one and one-half times the regular rate of pay of the employee;

- (c) the existence of a policy of the employer to rotate staff to avoid inequitable assignment of Sunday work;
- (d) the history of the work relationship including previous requirements respecting Sunday work assignments;
- (e) the fact that the employer has or has not made reasonable efforts to hire additional staff to permit reasonable scheduling of Sunday work;
- (f) the fact that the employee was hired on a part-time basis for the specific purpose of permitting reasonable scheduling of Sunday work by other employees of the employer;
- (g) the existence of an emergency situation.

(3) Following a hearing under this section, a referee,

Powers of referee

- (a) may decide what constitutes reasonable assignment of Sunday work in respect of the employee and employer to whom the hearing relates;
- (b) if the referee decides that subsection 39i (1) has been contravened, may order what action, if any, the employer or other person shall take or what the employer or other person shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate the employee in employment, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the referee against the employer.

(4) A referee may refuse to make an order in respect of a contravention of subsection 39i (1) if the referee is of the opinion that the employee's refusal of Sunday work was made in bad faith or if the contravention was the result of a contravention by the employee of a settlement reached between the employee and the employer with the assistance of an employment standards officer under subsection 39j (3) or a decision of a referee under clause (3) (a) of this section. Idem

(5) An order under clause (3) (b) shall specify that all funds be paid to the Director in trust. Idem

Application  
of subss.  
47 (4-6)

(6) Subsections 47 (4) to (6) apply with necessary modifications to an order under clause (3) (b).

Decisions  
and orders  
final

(7) The decisions and orders of the referee are final.

Commence-  
ment

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

Short title

**4. The short title of this Act is the *Employment Standards Amendment Act, 1988*.**







# Bill 114

*(Chapter 4  
Statutes of Ontario, 1989)*

## **An Act to amend the Employment Standards Act**

The Hon. G. Sorbara  
*Minister of Labour*

---

<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	June 20th, 1988
<i>3rd Reading</i>	February 7th, 1989
<i>Royal Assent</i>	February 27th, 1989

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# Bill 114

1988

## An Act to amend the Employment Standards 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 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Christmas Day” in the third line “and the 26th day of December”.

**2.** Part XI-B of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1, is amended by adding thereto the following sections:

**39g.**—(1) This section and sections 39h to 39k apply only to retail business establishments, as defined in section 1 of the *Retail Business Holidays Act*, and to the employees and employers in such retail business establishments and to persons acting on behalf of such employers.

Application  
of sections  
39g to 39k  
R.S.O. 1980,  
c. 453

(2) In sections 39h and 39k,

Definitions

“employee” means an employee to whom the section applies;

“employer” means an employer to whom the section applies.

**39h.** Except as provided in this Part, an employee may refuse any assignment of Sunday work that the employee considers unreasonable.

Right to  
refuse  
Sunday work

**39i.**—(1) No employer or person acting on behalf of an employer shall,

Prohibition

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employee has refused an assignment of Sunday work that the employee considers unreasonable.

Exception

(2) Subsection (1) does not apply if, following an agreement between the employee and employer reached with the assistance of an employment standards officer under subsection 39j (3), or if, following the decision of a referee under subsection 39k (3), the employee fails to work in accordance with the agreement or decision.

Role of  
employment  
standards  
officer

**39j.**—(1) If an employee and an employer dispute that an assignment of Sunday work is unreasonable or if an employee has refused an assignment of Sunday work on the basis that it was unreasonable, either the employee or the employer may apply to the Director for the appointment of an employment standards officer to inquire into and endeavour to effect a settlement of the matter.

Idem

(2) If an employee is of the opinion that the employee's employer or a person acting on the employer's behalf has contravened subsection 39i (1) against the employee, the employee may apply to the Director for the appointment of an employment standards officer to inquire into and endeavour to effect a settlement of the matter.

Idem

(3) Upon receipt of an application under subsection (1) or (2), the Director shall forthwith appoint an employment standards officer who shall forthwith inquire into and endeavour to effect a settlement of the matter.

Hearing by  
referee

**39k.**—(1) If, following an inquiry under subsection 39j (3), an employment standards officer reports to the Director that a settlement cannot be reached, the Director shall appoint a referee from the panel of referees and the referee shall convene a hearing as soon as is practicable for the purpose of determining the matter.

Determi-  
nation of  
unreason-  
ableness

(2) In a hearing under this section, the referee shall determine whether the disputed Sunday work assignment is or was unreasonable and, without restricting the generality of the foregoing, may take into account,

- (a) the terms of a collective agreement that specifically address Sunday work, if the employee is a member of the bargaining unit;
- (b) the existence of a premium pay arrangement for Sunday work by the employee that is not less than one and one-half times the regular rate of pay of the employee;

- (c) the existence of a policy of the employer to rotate staff to avoid inequitable assignment of Sunday work;
- (d) the history of the work relationship including previous requirements respecting Sunday work assignments;
- (e) the fact that the employer has or has not made reasonable efforts to hire additional staff to permit reasonable scheduling of Sunday work;
- (f) the fact that the employee was hired on a part-time basis for the specific purpose of permitting reasonable scheduling of Sunday work by other employees of the employer;
- (g) the existence of an emergency situation.

(3) Following a hearing under this section, a referee,

Powers of  
referee

- (a) may decide what constitutes reasonable assignment of Sunday work in respect of the employee and employer to whom the hearing relates;
- (b) if the referee decides that subsection 39i (1) has been contravened, may order what action, if any, the employer or other person shall take or what the employer or other person shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate the employee in employment, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the referee against the employer.

(4) A referee may refuse to make an order in respect of a contravention of subsection 39i (1) if the referee is of the opinion that the employee's refusal of Sunday work was made in bad faith or if the contravention was the result of a contravention by the employee of a settlement reached between the employee and the employer with the assistance of an employment standards officer under subsection 39j (3) or a decision of a referee under clause (3) (a) of this section. Idem

(5) An order under clause (3) (b) shall specify that all funds be paid to the Director in trust. Idem

Application  
of subss.  
47 (4-6)

(6) Subsections 47 (4) to (6) apply with necessary modifications to an order under clause (3) (b).

Decisions  
and orders  
final

(7) The decisions and orders of the referee are final.

Commence-  
ment

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

Short title

**4. The short title of this Act is the *Employment Standards Amendment Act, 1989*.**







# Bill 115

## **An Act to provide for Construction Work in connection with the Toronto Economic Summit**

The Hon. G. Sorbara  
*Minister of Labour*

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*1st Reading*      April 25th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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### EXPLANATORY NOTE

The Bill continues provincial agreements in the construction industry until a date not later than June 30th, 1988 to facilitate construction work required for the Toronto Economic Summit.

The Bill applies only to construction work on the lands and premises in and near the Metropolitan Toronto Convention Centre, as described in the Schedule.

Bill 115

1988

**An Act to provide for Construction Work in  
connection with the Toronto Economic Summit**

Whereas an economic summit meeting, herein called the Toronto Economic Summit, will be held in Toronto in June of 1988; and whereas it is in the public interest that certain facilities including security facilities required for the Toronto Economic Summit be constructed before its commencement; and whereas provincial agreements in the construction industry expire on the 30th day of April, 1988 and work stoppages may occur as a result thereof;

Preamble

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

**1.** Terms in this Act that are defined in the *Labour Relations Act* have the same meaning as in the *Labour Relations Act*.

Interpretation  
R.S.O. 1980,  
c. 228

**2.—(1)** Despite the *Labour Relations Act* or any provision of a provincial agreement, each provincial agreement in operation on the 29th day of April, 1988 shall, for the purposes of carrying out construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit, continue in operation until replaced by a new ratified provincial agreement or until the 30th day of June, 1988, whichever occurs first.

Provincial  
agreements  
to continue  
re: Toronto  
Economic  
Summit to  
continue  
R.S.O. 1980,  
c. 228

(2) Subsection (1) does not affect any provincial agreement except in respect of construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit.

Limitation

(3) No strike or lock-out shall be called, authorized or take place in respect of construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit.

No strikes or  
lock-outs

Application  
of R.S.O.  
1980, c. 228

**3.** Subject to this Act, the *Labour Relations Act* applies to each provincial agreement continued by subsection 2 (1) and to the parties bound thereby in respect of construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit.

Commence-  
ment and  
repeal

**4.** This Act comes into force on the day it receives Royal Assent and is repealed on the 30th day of June, 1988.

Short title

**5.** The short title of this Act is the *Toronto Economic Summit Construction Act, 1988*.

### SCHEDULE

Those lands and premises in the City of Toronto in The Municipality of Metropolitan Toronto described as follows:

1. The lands and premises composed of the Simcoe Place Block, originally shown on the plan of the Town of York and which block is denominated by the letter C thereon and now designated as Part 1 on a plan deposited in the Land Registry Office for the Registry Division of Toronto as No. 63R-764.
2. The lands and premises composed of Parts 1, 2, 3, 4, 5, 6, 7 and 8 on a plan deposited in the Land Registry Office for the Registry Division of Toronto as Plan 66R-13575.

# Bill 115

*(Chapter 21  
Statutes of Ontario, 1988)*

## **An Act to provide for Construction Work in connection with the Toronto Economic Summit**

The Hon. G. Sorbara  
*Minister of Labour*

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<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	April 27th, 1988
<i>3rd Reading</i>	April 28th, 1988
<i>Royal Assent</i>	April 28th, 1988

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## Bill 115

1988

**An Act to provide for Construction Work in  
connection with the Toronto Economic Summit**

Whereas an economic summit meeting, herein called the Toronto Economic Summit, will be held in Toronto in June of 1988; and whereas it is in the public interest that certain facilities including security facilities required for the Toronto Economic Summit be constructed before its commencement; and whereas provincial agreements in the construction industry expire on the 30th day of April, 1988 and work stoppages may occur as a result thereof;

Preamble

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

**1.** Terms in this Act that are defined in the *Labour Relations Act* have the same meaning as in the *Labour Relations Act*.

Interpretation  
R.S.O. 1980,  
c. 228

**2.—(1)** Despite the *Labour Relations Act* or any provision of a provincial agreement, each provincial agreement in operation on the 29th day of April, 1988 shall, for the purposes of carrying out construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit, continue in operation until replaced by a new ratified provincial agreement or until the 30th day of June, 1988, whichever occurs first.

Provincial  
agreements  
to continue  
re: Toronto  
Economic  
Summit to  
continue  
R.S.O. 1980,  
c. 228

**(2)** Subsection (1) does not affect any provincial agreement except in respect of construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit.

Limitation

**(3)** No strike or lock-out shall be called, authorized or take place in respect of construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit.

No strikes or  
lock-outs

Application  
of R.S.O.  
1980, c. 228

**3.** Subject to this Act, the *Labour Relations Act* applies to each provincial agreement continued by subsection 2 (1) and to the parties bound thereby in respect of construction work on the lands and premises described in the Schedule and required in connection with the Toronto Economic Summit.

Commence-  
ment and  
repeal

**4.** This Act comes into force on the day it receives Royal Assent and is repealed on the 30th day of June, 1988.

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**5.** The short title of this Act is the *Toronto Economic Summit Construction Act, 1988*.

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Those lands and premises in the City of Toronto in The Municipality of Metropolitan Toronto described as follows:

1. The lands and premises composed of the Simcoe Place Block, originally shown on the plan of the Town of York and which block is denominated by the letter C thereon and now designated as Part 1 on a plan deposited in the Land Registry Office for the Registry Division of Toronto as No. 63R-764.
2. The lands and premises composed of Parts 1, 2, 3, 4, 5, 6, 7 and 8 on a plan deposited in the Land Registry Office for the Registry Division of Toronto as Plan 66R-13575.



# Bill 116

## **An Act respecting the Northern Ontario Heritage Fund**

The Hon. R. Fontaine  
*Minister of Northern Development*

*1st Reading*      April 25th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

# Projet de loi 116

## **Loi concernant le Fonds patrimonial du Nord de l'Ontario**

L'honorable R. Fontaine  
*ministre du Développement du Nord*

*1<sup>re</sup> lecture*      25 avril 1988  
*2<sup>e</sup> lecture*  
*3<sup>e</sup> lecture*  
*sanction royale*

#### EXPLANATORY NOTE

The purpose of the Bill is to establish a corporation whose objects are to promote and stimulate economic growth in Northern Ontario. In furtherance of these objects, a fund will be established and maintained.

## NOTES EXPLICATIVES

Le projet de loi crée une société qui a pour objet la promotion et la stimulation de la croissance économique dans le Nord de l'Ontario. Un fonds sera créé et maintenu à cet effet.

**Bill 116****1988**

**An Act respecting the  
Northern Ontario Heritage Fund**

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

- Definitions      **1.** In this Act,
- “Société”      “Corporation” means the Northern Ontario Heritage Fund Corporation;
- “Fonds”      “Fund” means the Northern Ontario Heritage Fund;
- “ministre”      “Minister” means the Minister of Northern Development.
- Corporation established      **2.** The Northern Ontario Heritage Fund Corporation is hereby established as a body corporate.
- Board      **3.**—(1) The affairs of the Corporation shall be administered by a board of directors consisting of not fewer than twelve persons.
- Idem      (2) The Minister shall be a director and shall chair the board of directors.
- Idem      (3) Every other director shall be appointed by order of the Lieutenant Governor in Council for such term as is stipulated in the order.
- R.S.O. 1980, c. 95, does not apply      **4.** The *Corporations Act* does not apply to the Corporation.
- Objects      **5.** The objects of the Corporation are,
- (a) to advise and make recommendations to the Lieutenant Governor in Council on any matter relating to the growth and diversification of the economy of Northern Ontario;

## Projet de loi 116

1988

### Loi concernant le Fonds patrimonial du Nord de l'Ontario

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- |   |  |
|---|--|
| <b>1</b> Les définitions qui suivent s'appliquent à la présente loi.  | Définitions                                    |
| «Fonds» Le Fonds patrimonial du Nord de l'Ontario.  | «Fund»   |
| «ministre» Le ministre du Développement du Nord.  | «Minister»                                     |
| «Société» La Société de gestion du Fonds patrimonial du Nord de l'Ontario.  | «Corporation»                                  |
| <b>2</b> Est créée une personne morale nommée Société de gestion du Fonds patrimonial du Nord de l'Ontario.   | Création de la Société                         |
| <b>3</b> (1) Un conseil d'administration composé d'au moins douze personnes gère les affaires de la Société.  | Conseil d'administration                       |
| (2) Le ministre est administrateur de la Société et préside le conseil d'administration.  | Idem   |
| (3) Le lieutenant-gouverneur en conseil, par décret, nomme les autres administrateurs et fixe la durée de leur mandat.  | Idem   |
| <b>4</b> La <i>Loi sur les compagnies et associations</i> ne s'applique pas à la Société.   | Non-application du chap. 95 des L.R.O. de 1980 |
| <b>5</b> Les objets de la Société sont les suivants :   | Objets   |
| a) conseiller le lieutenant-gouverneur en conseil sur toute question relative à la croissance et à la diversification économiques du Nord de l'Ontario, et lui faire des recommandations à cet égard; |  |

- (b) to promote and stimulate economic initiatives in Northern Ontario; and
- (c) to commission studies and enter into contracts in connection with the objects set out in clauses (a) and (b).

**Fund**                   **6.—(1)** The Corporation shall establish and maintain a fund known as the Northern Ontario Heritage Fund.

**Idem**                   (2) The Minister, out of moneys appropriated therefor by the Legislature, may make grants to the Corporation for deposit in the Fund, subject to such conditions as the Lieutenant Governor in Council considers advisable.

**Investments**       (3) The Corporation may invest money deposited in the Fund in,

- (a) securities issued by or guaranteed by Ontario, any other province of Canada, Canada, the United Kingdom or the United States of America;
- (b) securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency;
- (c) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued, guaranteed or endorsed by any bank named in Schedule A or B to the *Bank Act* (Canada); and
- (d) other investments authorized by the Lieutenant Governor in Council.

1980-81,  
c. 40 (Can.)

**Purposes of the Fund**       **7.—(1)** The Corporation may use any money deposited in the Fund to further its objects and, for the purpose of clause 5 (b), may provide financial assistance by way of grant or loan and may guarantee any loan.

**Guarantee**           (2) Every guarantee under subsection (1) executed by the Corporation and signed by the Treasurer of Ontario is binding on the Province of Ontario.

**Audit**               **8.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor.

- b) promouvoir et stimuler des initiatives économiques dans le Nord de l'Ontario;
- c) faire entreprendre des études et conclure des contrats relativement aux objets visés aux alinéas a) et b).

**6** (1) La Société crée et maintient un fonds nommé Fonds patrimonial du Nord de l'Ontario. Fonds

(2) Le ministre peut, sur les sommes affectées à cette fin par la Législature, accorder à la Société des subventions qu'elle verse au Fonds. Le lieutenant-gouverneur en conseil peut assujettir ces subventions aux conditions qu'il juge opportunes. Idem

(3) La Société peut placer les sommes versées au Fonds : Placements

- a) dans des valeurs mobilières émises ou garanties par l'Ontario, une autre province du Canada, le Canada, le Royaume-Uni ou les États-Unis d'Amérique;
- b) dans des valeurs mobilières émises ou garanties par la Banque internationale pour la reconstruction et le développement, qui sont payables en monnaie du Canada ou des États-Unis;
- c) dans des récépissés, des billets ou des certificats de dépôt, des acceptations ou d'autres effets semblables émis, garantis ou visés par une banque désignée à l'annexe A ou B de la *Loi sur les banques* (Canada); 1980-1981,  
chap. 40  
(Can.)
- d) dans tout autre placement qu'autorise le lieutenant-gouverneur en conseil.

**7** (1) La Société peut affecter les sommes versées au Fonds à la poursuite de ses objets. Pour l'application de l'alinéa 5 b), elle peut accorder de l'aide financière au moyen de subventions et de prêts et peut garantir tout prêt. Objets du  
Fonds

(2) Les garanties prévues au paragraphe (1) lient la province de l'Ontario si elles sont passées par la Société et signées par le trésorier de l'Ontario. Garanties

**8** Les comptes et les opérations financières de la Société sont vérifiés chaque année par le vérificateur provincial. Vérification

Annual  
report

**9.** After the end of each fiscal year, the Corporation shall prepare an annual report on its affairs 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 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 *Northern Ontario Heritage Fund Act, 1988*.



**9** Au terme de chaque exercice, la Société prépare un rapport annuel sur ses activités. Le ministre le présente au lieutenant-gouverneur en conseil et le dépose ensuite devant l'Assemblée; si celle-ci ne siège pas, il le dépose à la session suivante.

Rapport  
annuel

**10** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

**11** Le titre abrégé de la présente loi est *Loi de 1988 sur le Fonds patrimonial du Nord de l'Ontario*.

Titre abrégé







1<sup>ST</sup> SESSION, 34<sup>TH</sup> LEGISLATURE, ONTARIO  
37 ELIZABETH II, 1988

1<sup>RE</sup> SESSION, 34<sup>E</sup> LÉGISLATURE, ONTARIO  
37 ELIZABETH II, 1988

# Bill 116

## **An Act respecting the Northern Ontario Heritage Fund**

The Hon. R. Fontaine  
*Minister of Northern Development*

*1st Reading*      April 25th, 1988

*2nd Reading*      May 25th, 1988

*3rd Reading*

*Royal Assent*

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

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# Projet de loi 116

## **Loi concernant le Fonds du patrimoine du Nord de l'Ontario**

L'honorable R. Fontaine  
*ministre du Développement du Nord*

*1<sup>re</sup> lecture*      25 avril 1988

*2<sup>e</sup> lecture*      25 mai 1988

*3<sup>e</sup> lecture*

*sanction royale*

*(Réimprimé tel que modifié par le  
Comité plénier)*

Imprimé avec l'autorisation  
de l'Assemblée législative par  
©l'Imprimeur de la Reine pour l'Ontario

#### EXPLANATORY NOTE

The purpose of the Bill is to establish a corporation whose objects are to promote and stimulate economic growth in Northern Ontario. In furtherance of these objects, a fund will be established and maintained.

### NOTES EXPLICATIVES

Le projet de loi crée une société qui a pour objet la promotion et la stimulation de la croissance économique dans le Nord de l'Ontario. Un fonds sera créé et maintenu à cet effet.

**Bill 116****1988**

**An Act respecting the  
Northern Ontario Heritage Fund**

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

- Definitions      **1.** In this Act,
- “Société”      “Corporation” means the Northern Ontario Heritage Fund Corporation;
- “Fonds”      “Fund” means the Northern Ontario Heritage Fund;
- “ministre”      “Minister” means the Minister of Northern Development.
- Corporation established      **2.** The Northern Ontario Heritage Fund Corporation is hereby established as a body corporate.
- Board      **3.**—(1) The affairs of the Corporation shall be administered by a board of directors consisting of not fewer than twelve persons.
- Idem      (2) The Minister shall be a director and shall chair the board of directors.
- Idem      (3) Every other director shall be appointed by order of the Lieutenant Governor in Council for such term as is stipulated in the order.
- Idem      (4) Every director, except for the Minister, shall be ordinarily resident in the Territorial District of Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay or Timiskaming.      ▲
- R.S.O. 1980, c. 95, does not apply      **4.** The *Corporations Act* does not apply to the Corporation.
- Objects      **5.** The objects of the Corporation are,





## Projet de loi 116

1988


**Loi concernant le  
Fonds du patrimoine du Nord de l'Ontario**


SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- 1** Les définitions qui suivent s'appliquent à la présente loi. Définitions
- «Fonds» Le Fonds du patrimoine du Nord de l'Ontario. «Fund»
- «ministre» Le ministre du Développement du Nord. «Minister»
- «Société» La Société de gestion du Fonds du patrimoine du Nord de l'Ontario. «Corporation»
- 2** Est créée une personne morale nommée Société de gestion du Fonds du patrimoine du Nord de l'Ontario. Création de la Société
- 3** (1) Un conseil d'administration composé d'au moins douze personnes gère les affaires de la Société. Conseil d'administration
- (2) Le ministre est administrateur de la Société et préside le conseil d'administration. Idem
- (3) Le lieutenant-gouverneur en conseil, par décret, nomme les autres administrateurs et fixe la durée de leur mandat. Idem
-  (4) À l'exception du ministre, les administrateurs résident ordinairement dans les districts territoriaux d'Algoma, de Cochrane, de Kenora, de Manitoulin, de Nipissing, de Parry Sound, de Rainy River, de Sudbury, de Thunder Bay ou de Timiskaming. Idem 
- 4** La *Loi sur les compagnies et associations* ne s'applique pas à la Société. Non-application du chap. 95 des L.R.O. de 1980
- 5** Les objets de la Société sont les suivants : Objets

- (a) to advise and make recommendations to the Lieutenant Governor in Council on any matter relating to the growth and diversification of the economy of Northern Ontario;
- (b) to promote and stimulate economic initiatives in Northern Ontario; and
- (c) to commission studies and enter into contracts in connection with the objects set out in clauses (a) and (b).

Fund

**6.—(1)** The Corporation shall establish and maintain a fund known as the Northern Ontario Heritage Fund.

Idem

(2) The Minister, out of moneys appropriated therefor by the Legislature, may make grants to the Corporation for deposit in the Fund, subject to such conditions as the Lieutenant Governor in Council considers advisable.

Investments

(3) The Corporation may invest money deposited in the Fund in,

- (a) securities issued by or guaranteed by Ontario, any other province of Canada, Canada, the United Kingdom or the United States of America;
- (b) securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency;
- (c) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued, guaranteed or endorsed by any bank named in Schedule A or B to the *Bank Act* (Canada); and
- (d) other investments authorized by the Lieutenant Governor in Council.

1980-81,  
c. 40 (Can.)Purposes of  
the Fund

**7.—(1)** The Corporation may use any money deposited in the Fund to further its objects and, for the purpose of clause 5 (b), may provide financial assistance by way of grant or loan and may guarantee any loan.

Guarantee

(2) Every guarantee under subsection (1) executed by the Corporation and signed by the Treasurer of Ontario is binding on the Province of Ontario.

- a) conseiller le lieutenant-gouverneur en conseil sur toute question relative à la croissance et à la diversification économiques du Nord de l'Ontario, et lui faire des recommandations à cet égard;
- b) promouvoir et stimuler des initiatives économiques dans le Nord de l'Ontario;
- c) faire entreprendre des études et conclure des contrats relativement aux objets visés aux alinéas a) et b).

**6** (1) La Société crée et maintient un fonds nommé Fonds du patrimoine du Nord de l'Ontario. Fonds

(2) Le ministre peut, sur les sommes affectées à cette fin par la Législature, accorder à la Société des subventions qu'elle verse au Fonds. Le lieutenant-gouverneur en conseil peut assujettir ces subventions aux conditions qu'il juge opportunes. Idem

(3) La Société peut placer les sommes versées au Fonds : Placements

- a) dans des valeurs mobilières émises ou garanties par l'Ontario, une autre province du Canada, le Canada, le Royaume-Uni ou les États-Unis d'Amérique;
- b) dans des valeurs mobilières émises ou garanties par la Banque internationale pour la reconstruction et le développement, qui sont payables en monnaie du Canada ou des États-Unis;
- c) dans des récépissés, des billets ou des certificats de dépôt, des acceptations ou d'autres effets semblables émis, garantis ou visés par une banque désignée à l'annexe A ou B de la *Loi sur les banques* (Canada); 1980-1981,  
chap. 40  
(Can.)
- d) dans tout autre placement qu'autorise le lieutenant-gouverneur en conseil.

**7** (1) La Société peut affecter les sommes versées au Fonds à la poursuite de ses objets. Pour l'application de l'alinéa 5 b), elle peut accorder de l'aide financière au moyen de subventions et de prêts et peut garantir tout prêt. Objets du  
Fonds

(2) Les garanties prévues au paragraphe (1) lient la province de l'Ontario si elles sont passées par la Société et signées par le trésorier de l'Ontario. Garanties

Audit

**8.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor.

Annual  
report

**9.** After the end of each fiscal year, the Corporation shall prepare an annual report on its affairs 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 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 *Northern Ontario Heritage Fund Act, 1988*.

**8** Les comptes et les opérations financières de la Société sont vérifiés chaque année par le vérificateur provincial. Vérification

**9** Au terme de chaque exercice, la Société prépare un rapport annuel sur ses activités. Le ministre le présente au lieutenant-gouverneur en conseil et le dépose ensuite devant l'Assemblée; si celle-ci ne siège pas, il le dépose à la session suivante. Rapport  
annuel

**10** La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en  
vigueur

**11** Le titre abrégé de la présente loi est *Loi de 1988 sur le Fonds du patrimoine du Nord de l'Ontario*. Titre abrégé









# Bill 116

(Chapter 25  
Statutes of Ontario, 1988)

## An Act respecting the Northern Ontario Heritage Fund

The Hon. R. Fontaine  
*Minister of Northern Development*

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<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	May 25th, 1988
<i>3rd Reading</i>	June 1st, 1988
<i>Royal Assent</i>	June 1st, 1988

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# Projet de loi 116

(Chapitre 25  
Lois de l'Ontario de 1988)

## Loi concernant le Fonds du patrimoine du Nord de l'Ontario

L'honorable R. Fontaine  
*ministre du Développement du Nord*

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<i>1<sup>re</sup> lecture</i>	25 avril 1988
<i>2<sup>e</sup> lecture</i>	25 mai 1988
<i>3<sup>e</sup> lecture</i>	1 <sup>er</sup> juin 1988
<i>sanction royale</i>	1 <sup>er</sup> juin 1988

---

**Bill 116****1988**

**An Act respecting the  
Northern Ontario Heritage Fund**

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

- Definitions      **1.** In this Act,
- “Société”      “Corporation” means the Northern Ontario Heritage Fund Corporation;
- “Fonds”      “Fund” means the Northern Ontario Heritage Fund;
- “ministre”      “Minister” means the Minister of Northern Development.
- Corporation established      **2.** The Northern Ontario Heritage Fund Corporation is hereby established as a body corporate.
- Board      **3.—(1)** The affairs of the Corporation shall be administered by a board of directors consisting of not fewer than twelve persons.
- Idem      (2) The Minister shall be a director and shall chair the board of directors.
- Idem      (3) Every other director shall be appointed by order of the Lieutenant Governor in Council for such term as is stipulated in the order.
- Idem      (4) Every director, except for the Minister, shall be ordinarily resident in the Territorial District of Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay or Timiskaming.
- R.S.O. 1980, c. 95, does not apply      **4.** The *Corporations Act* does not apply to the Corporation.
- Objects      **5.** The objects of the Corporation are,

## Projet de loi 116

1988

**Loi concernant le  
Fonds du patrimoine du Nord de l'Ontario**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- 1** Les définitions qui suivent s'appliquent à la présente loi. Définitions
- «Fonds» Le Fonds du patrimoine du Nord de l'Ontario. «Fund»
- «ministre» Le ministre du Développement du Nord. «Minister»
- «Société» La Société de gestion du Fonds du patrimoine du Nord de l'Ontario. «Corporation»
- 2** Est créée une personne morale nommée Société de gestion du Fonds du patrimoine du Nord de l'Ontario. Création de la Société
- 3** (1) Un conseil d'administration composé d'au moins douze personnes gère les affaires de la Société. Conseil d'administration
- (2) Le ministre est administrateur de la Société et préside le conseil d'administration. Idem
- (3) Le lieutenant-gouverneur en conseil, par décret, nomme les autres administrateurs et fixe la durée de leur mandat. Idem
- (4) À l'exception du ministre, les administrateurs résident ordinairement dans les districts territoriaux d'Algoma, de Cochrane, de Kenora, de Manitoulin, de Nipissing, de Parry Sound, de Rainy River, de Sudbury, de Thunder Bay ou de Timiskaming. Idem
- 4** La *Loi sur les compagnies et associations* ne s'applique pas à la Société. Non-application du chap. 95 des L.R.O. de 1980
- 5** Les objets de la Société sont les suivants : Objets

- (a) to advise and make recommendations to the Lieutenant Governor in Council on any matter relating to the growth and diversification of the economy of Northern Ontario;
- (b) to promote and stimulate economic initiatives in Northern Ontario; and
- (c) to commission studies and enter into contracts in connection with the objects set out in clauses (a) and (b).

Fund

**6.**—(1) The Corporation shall establish and maintain a fund known as the Northern Ontario Heritage Fund.

Idem

(2) The Minister, out of moneys appropriated therefor by the Legislature, may make grants to the Corporation for deposit in the Fund, subject to such conditions as the Lieutenant Governor in Council considers advisable.

Investments

(3) The Corporation may invest money deposited in the Fund in,

- (a) securities issued by or guaranteed by Ontario, any other province of Canada, Canada, the United Kingdom or the United States of America;
- (b) securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency;
- (c) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued, guaranteed or endorsed by any bank named in Schedule A or B to the *Bank Act* (Canada); and
- (d) other investments authorized by the Lieutenant Governor in Council.

1980-81,  
c. 40 (Can.)

Purposes of the Fund

**7.**—(1) The Corporation may use any money deposited in the Fund to further its objects and, for the purpose of clause 5 (b), may provide financial assistance by way of grant or loan and may guarantee any loan.

Guarantee

(2) Every guarantee under subsection (1) executed by the Corporation and signed by the Treasurer of Ontario is binding on the Province of Ontario.

- a) conseiller le lieutenant-gouverneur en conseil sur toute question relative à la croissance et à la diversification économiques du Nord de l'Ontario, et lui faire des recommandations à cet égard;
- b) promouvoir et stimuler des initiatives économiques dans le Nord de l'Ontario;
- c) faire entreprendre des études et conclure des contrats relativement aux objets visés aux alinéas a) et b).

**6** (1) La Société crée et maintient un fonds nommé Fonds du patrimoine du Nord de l'Ontario. Fonds

(2) Le ministre peut, sur les sommes affectées à cette fin par la Législature, accorder à la Société des subventions qu'elle verse au Fonds. Le lieutenant-gouverneur en conseil peut assujettir ces subventions aux conditions qu'il juge opportunes. Idem

(3) La Société peut placer les sommes versées au Fonds : Placements

- a) dans des valeurs mobilières émises ou garanties par l'Ontario, une autre province du Canada, le Canada, le Royaume-Uni ou les États-Unis d'Amérique;
- b) dans des valeurs mobilières émises ou garanties par la Banque internationale pour la reconstruction et le développement, qui sont payables en monnaie du Canada ou des États-Unis;
- c) dans des récépissés, des billets ou des certificats de dépôt, des acceptations ou d'autres effets semblables émis, garantis ou visés par une banque désignée à l'annexe A ou B de la *Loi sur les banques* (Canada);
- d) dans tout autre placement qu'autorise le lieutenant-gouverneur en conseil.

1980-1981,  
chap. 40  
(Can.)

**7** (1) La Société peut affecter les sommes versées au Fonds à la poursuite de ses objets. Pour l'application de l'alinéa 5 b), elle peut accorder de l'aide financière au moyen de subventions et de prêts et peut garantir tout prêt. Objets du Fonds

(2) Les garanties prévues au paragraphe (1) lient la province de l'Ontario si elles sont passées par la Société et signées par le trésorier de l'Ontario. Garanties

Audit

**8.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor.

Annual  
report

**9.** After the end of each fiscal year, the Corporation shall prepare an annual report on its affairs 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 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 *Northern Ontario Heritage Fund Act, 1988*.

**8** Les comptes et les opérations financières de la Société sont vérifiés chaque année par le vérificateur provincial. Vérification

**9** Au terme de chaque exercice, la Société prépare un rapport annuel sur ses activités. Le ministre le présente au lieutenant-gouverneur en conseil et le dépose ensuite devant l'Assemblée; si celle-ci ne siège pas, il le dépose à la session suivante. Rapport  
annuel

**10** La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en  
vigueur

**11** Le titre abrégé de la présente loi est *Loi de 1988 sur le Fonds du patrimoine du Nord de l'Ontario*. Titre abrégé





# Bill 117

## **An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

---

*1st Reading*      April 25th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill is to provide authority for borrowing moneys for the Consolidated Revenue Fund. The principal borrowings authorized under the *Ontario Loan Act* in recent years have been from the following sources:

1. Canada Pension Plan
2. Teachers' Superannuation Fund
3. The public capital market

The amount of \$2,800,000,000 authorized by the Bill is intended to cover borrowing primarily from the first two listed sources.

The Bill provides that any unused borrowing authority will expire on September 30th, 1989.

Bill 117

1988

## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

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

**1.**—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,800,000,000.

Loans up to  
\$2,800,000,000  
R.S.O. 1980,  
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

**2.** No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made on or before the 30th day of September, 1989.

Limitation

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

Commence-  
ment

**4.** The short title of this Act is the *Ontario Loan Act, 1988*.

Short title



# Bill 117

*(Chapter 26  
Statutes of Ontario, 1988)*

## **An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

---

<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	May 30th, 1988
<i>3rd Reading</i>	June 1st, 1988
<i>Royal Assent</i>	June 1st, 1988



Bill 117

1988

## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

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

**1.**—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,800,000,000.

Loans up to  
\$2,800,000,000

R.S.O. 1980,  
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

**2.** No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made on or before the 30th day of September, 1989.

Limitation

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

Commence-  
ment

**4.** The short title of this Act is the *Ontario Loan Act, 1988*.

Short title





# Bill 118

## **An Act to amend the Financial Administration Act**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

---

*1st Reading*      April 25th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTE

Section 3 of the *Financial Administration Act*, which authorizes the Treasurer to purchase securities for the purpose of managing the public money and the public debt, is re-enacted to also authorize the use of foreign currency exchange agreements, interest rate exchange agreements, and spot and forward foreign currency contracts.

**Bill 118**

**1988**

**An Act to amend the Financial Administration Act**

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

**1. Section 3 of the *Financial Administration Act*, being chapter 161 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 37, section 1, is repealed and the following substituted therefor:**

**3.—(1)** When the Treasurer considers it advisable for the sound and efficient management of public money, the public debt or any sinking fund, the Treasurer may purchase, acquire, hold or enter into,

Securities  
and securities  
contracts

- (a) securities issued by or guaranteed as to principal and interest by Ontario, any other province of Canada, Canada, the United Kingdom or the United States of America;
- (b) securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency;
- (c) deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued, guaranteed or endorsed by a chartered bank to which the *Bank Act* (Canada) applies;
- (d) foreign currency exchange agreements;
- (e) interest rate exchange agreements;
- (f) spot and forward foreign currency contracts; and
- (g) other securities, financial contracts, agreements and investments authorized by the Lieutenant Governor in Council.

1980-81,  
c. 40 (Can.)

Terms and conditions

(2) A purchase, acquisition, holding or entering into mentioned in subsection (1) may be subject to such terms and conditions as the Treasurer considers advisable.

Payment out of Consolidated Revenue Fund

(3) The moneys required for the purposes of subsection (1), or in respect of the performance of a contract or agreement mentioned in subsection (1), are a charge upon and payable out of the Consolidated Revenue Fund.

Sale or disposal

(4) The Treasurer may sell or dispose of anything mentioned in subsection (1) purchased, acquired, held or entered into by the Treasurer, and the proceeds of the sale or disposition shall be deposited to the credit of the Consolidated Revenue Fund.

Fees, commissions or expenses

(5) Fees, commissions or expenses incurred by the Treasurer in respect of the purchase, acquisition, holding, entering into, performance, sale or disposition of anything mentioned in subsection (1) are a charge upon and payable out of the Consolidated Revenue Fund.

Commencement

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

Short title

**3. The short title of this Act is the *Financial Administration Amendment Act, 1988*.**

# Bill 118

*(Chapter 34  
Statutes of Ontario, 1988)*

## **An Act to amend the Financial Administration Act**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

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<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	May 30th, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988



**Bill 118**

**1988**

**An Act to amend the Financial Administration Act**

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

**1.** Section 3 of the *Financial Administration Act*, being chapter 161 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 37, section 1, is repealed and the following substituted therefor:

**3.—(1)** When the Treasurer considers it advisable for the sound and efficient management of public money, the public debt or any sinking fund, the Treasurer may purchase, acquire, hold or enter into,

Securities  
and securities  
contracts

- (a) securities issued by or guaranteed as to principal and interest by Ontario, any other province of Canada, Canada, the United Kingdom or the United States of America;
- (b) securities issued or guaranteed by the International Bank for Reconstruction and Development payable in Canadian or United States currency;
- (c) deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued, guaranteed or endorsed by a chartered bank to which the *Bank Act* (Canada) applies;
- (d) foreign currency exchange agreements;
- (e) interest rate exchange agreements;
- (f) spot and forward foreign currency contracts; and
- (g) other securities, financial contracts, agreements and investments authorized by the Lieutenant Governor in Council.

1980-81,  
c. 40 (Can.)

Terms and conditions

(2) A purchase, acquisition, holding or entering into mentioned in subsection (1) may be subject to such terms and conditions as the Treasurer considers advisable.

Payment out of Consolidated Revenue Fund

(3) The moneys required for the purposes of subsection (1), or in respect of the performance of a contract or agreement mentioned in subsection (1), are a charge upon and payable out of the Consolidated Revenue Fund.

Sale or disposal

(4) The Treasurer may sell or dispose of anything mentioned in subsection (1) purchased, acquired, held or entered into by the Treasurer, and the proceeds of the sale or disposition shall be deposited to the credit of the Consolidated Revenue Fund.

Fees, commissions or expenses

(5) Fees, commissions or expenses incurred by the Treasurer in respect of the purchase, acquisition, holding, entering into, performance, sale or disposition of anything mentioned in subsection (1) are a charge upon and payable out of the Consolidated Revenue Fund.

Commencement

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

Short title

**3. The short title of this Act is the *Financial Administration Amendment Act, 1988*.**



# Bill 119

## **An Act to amend the Ontario Lottery Corporation Act**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

---

*1st Reading*      April 25th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

**SECTION 1.** The Bill re-enacts section 9 to provide that the net profits of the Ontario Lottery Corporation that are paid into the Consolidated Revenue Fund are available to be appropriated by the Legislature for the promotion and development of physical fitness, sports, recreational and cultural activities and facilities therefor. This part of this section repeats the provision now in section 9 for the availability of the net profits of the Corporation. In addition, the amendment provides that the Corporation's net profits are to be available for the activities of the Ontario Trillium Foundation. Any part of the net profits of the Corporation in a fiscal year that is not appropriated for the foregoing purposes is to be treated as part of the appropriation made by the Legislature in the fiscal year for the operation of hospitals.

**SECTION 2.** Unexpended money paid into the Consolidated Revenue Fund under section 9 of the *Ontario Lottery Corporation Act* in previous years will now be treated as part of the money appropriated by the Legislature for the operation of hospitals.

**Bill 119**

**1988**

**An Act to amend the  
Ontario Lottery Corporation Act**

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

**1.** Section 9 of the *Ontario Lottery Corporation Act*, being chapter 344 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

**9.** The net profits of the Corporation after provision for prizes and the payment of expenses of operations shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct, to be available for appropriation by the Legislature,

Net profits  
of the  
Corporation

- (a) for the promotion and development of physical fitness, sports, recreational and cultural activities and facilities therefor; and
- (b) for the activities of the Ontario Trillium Foundation,

and the net profits of the Corporation paid into the Consolidated Revenue Fund in a fiscal year of Ontario and not so appropriated in the fiscal year shall be applied to, and accounted for in the Public Accounts of Ontario as part of, the money appropriated by the Legislature in the fiscal year for the operation of hospitals.

**2.** The net profits of the Corporation that, pursuant to section 9 of the said Act, have been paid into the Consolidated Revenue Fund before the 1st day of April, 1988 and that have not been expended before that date shall be applied to, and accounted for in the Public Accounts of Ontario as part of, the money appropriated by the Legislature for the operation of hospitals in the fiscal year of Ontario in which this Act comes into force.

Transitional

Commence-  
ment

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

Short title

**4. The short title of this Act is the *Ontario Lottery Corporation Amendment Act, 1988*.**

# Bill 120

## **An Act to amend the Tobacco Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

---

*1st Reading*      April 25th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill is to increase the tax on cigarettes and cut tobacco.

**SECTION 1.** This section re-enacts clauses 2 (1) (a) and (b) of the Act to increase (effective April 21st, 1988) the rate of tax on cigarettes from 2.83 cents to 3.83 cents per cigarette and on tobacco, other than cigarettes or cigars, from 1.6 cents to 2.2 cents per gram.

**Bill 120****1988****An Act to amend the Tobacco Tax Act**

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

**1. Clauses 2 (1) (a) and (b) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 41, section 1, are repealed and the following substituted therefor:**

- (a) 3.83 cents on every cigarette purchased by the consumer;
  - (b) 2.2 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by the consumer; and
- . . . . .

**2. This Act comes into force on the 21st day of April, 1988.** Commence-  
ment

**3. The short title of this Act is the *Tobacco Tax Amendment Act, 1988*.** Short title





# Bill 120

## **An Act to amend the Tobacco Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

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*1st Reading*      April 25th, 1988  
*2nd Reading*     December 5th, 1988  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the Finance and Economic Affairs Committee)*

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## EXPLANATORY NOTES

The purpose of the Bill is to increase the tax on cigarettes and cut tobacco.

**SECTION 1.** This section re-enacts clauses 2 (1) (a) and (b) of the Act to increase (effective April 21st, 1988) the rate of tax on cigarettes from 2.83 cents to 3.83 cents per cigarette and on tobacco, other than cigarettes or cigars, from 1.6 cents to 2.2 cents per gram.

**SECTION 2.** This amendment will permit the Minister to designate collectors of tobacco tax in writing and provide that they are statutory agents in order to replace the present requirement that such collectors be prescribed by regulation.

**SECTION 3.** This amendment deletes the authority of the Lieutenant Governor in Council to designate collectors and is complementary to new section 3a of the Act, added to the Bill.

**SECTION 4.** This amendment will permit the Lieutenant Governor in Council,

- (a) to make regulations to define any terms used in the Act;
- (b) to prescribe the marking on packaging of tobacco products sold in Ontario to indicate whether or not tax is being paid thereon; and
- (c) to provide for the acquisition, transportation, storage, possession and sale of marked and unmarked tobacco.

**Bill 120**

**1988**

**An Act to amend the Tobacco Tax Act**

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

**1.** Clauses 2 (1) (a) and (b) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 41, section 1, are repealed and the following substituted therefor:

- (a) 3.83 cents on every cigarette purchased by the consumer;
- (b) 2.2 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by the consumer; and



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

**3a.** The Minister may designate in writing any person to collect the tax imposed by this Act, and the person so designated shall be the agent of the Minister and shall collect and remit the tax to the Treasurer at the time or times and in the manner prescribed by the regulations.

Ministerial  
designation

**3.** Clause 28 (1) (a) of the said Act is amended by striking out "and designating the persons by whom it is to be collected" in the second and third lines.

**4.** Subsection 28 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 6, is further amended by adding thereto the following clauses:

- (e) defining any word or expression in the Act that has not already been defined in the Act;

- (f) prescribing words or marks or both that shall be included on the packaging of cigarettes, cigars or other tobacco intended to be sold in Ontario, indicating that the cigarettes, cigars or other tobacco are taxable or exempt from tax under this Act, as the case may be, and prescribing the location on the packaging where such words or marks shall be located;

- (l) governing the acquisition, transportation, storage, possession and sale of marked and unmarked tobacco by dealers. ▲

Commence-  
ment

**5. This Act shall be deemed to have come into force on the 21st day of April, 1988.**

Short title

**6. The short title of this Act is the *Tobacco Tax Amendment Act, 1988.***

# Bill 120

## An Act to amend the Tobacco Tax Act

The Hon. B. Grandmaître  
*Minister of Revenue*

---

*1st Reading*      April 25th, 1988  
*2nd Reading*     December 5th, 1988  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the Finance and Economic Affairs Committee)  
(2nd Reprint—Correction of printing error—s. 4)*

## EXPLANATORY NOTES

The purpose of the Bill is to increase the tax on cigarettes and cut tobacco.

**SECTION 1.** This section re-enacts clauses 2 (1) (a) and (b) of the Act to increase (effective April 21st, 1988) the rate of tax on cigarettes from 2.83 cents to 3.83 cents per cigarette and on tobacco, other than cigarettes or cigars, from 1.6 cents to 2.2 cents per gram.

**SECTION 2.** This amendment will permit the Minister to designate collectors of tobacco tax in writing and provide that they are statutory agents in order to replace the present requirement that such collectors be prescribed by regulation.

**SECTION 3.** This amendment deletes the authority of the Lieutenant Governor in Council to designate collectors and is complementary to new section 3a of the Act, added to the Bill.

**SECTION 4.** This amendment will permit the Lieutenant Governor in Council,

- (a) to make regulations to define any terms used in the Act;
- (b) to prescribe the marking on packaging of tobacco products sold in Ontario to indicate whether or not tax is being paid thereon; and
- (c) to provide for the acquisition, transportation, storage, possession and sale of marked and unmarked tobacco.

**Bill 120**

**1988**

**An Act to amend the Tobacco Tax Act**

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

**1.** Clauses 2 (1) (a) and (b) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 41, section 1, are repealed and the following substituted therefor:

- (a) 3.83 cents on every cigarette purchased by the consumer;
- (b) 2.2 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by the consumer; and



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

**3a.** The Minister may designate in writing any person to collect the tax imposed by this Act, and the person so designated shall be the agent of the Minister and shall collect and remit the tax to the Treasurer at the time or times and in the manner prescribed by the regulations.

Ministerial  
designation

**3.** Clause 28 (1) (a) of the said Act is amended by striking out "and designating the persons by whom it is to be collected" in the second and third lines.

**4.** Subsection 28 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 6, is further amended by adding thereto the following clauses:

- (e) defining any words in the Act that have not already been defined in the Act;

- (f) prescribing words or marks or both that shall be included on the packaging of cigarettes, cigars or other tobacco intended to be sold in Ontario, indicating that the cigarettes, cigars or other tobacco are taxable or exempt from tax under this Act, as the case may be, and prescribing the location on the packaging where such words or marks shall be located;

- (l) governing the acquisition, transportation, storage, possession and sale of marked and unmarked tobacco by dealers. ▲

Commence-  
ment

**5.** This Act shall be deemed to have come into force on the 21st day of April, 1988.

Short title

**6.** The short title of this Act is the *Tobacco Tax Amendment Act, 1988*.



# Bill 120

*(Chapter 65  
Statutes of Ontario, 1988)*

## **An Act to amend the Tobacco Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

---

<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	December 5th, 1988
<i>3rd Reading</i>	December 15th, 1988
<i>Royal Assent</i>	December 15th, 1988



**Bill 120**

**1988**

**An Act to amend the Tobacco Tax Act**

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

**1. Clauses 2 (1) (a) and (b) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 41, section 1, are repealed and the following substituted therefor:**

- (a) 3.83 cents on every cigarette purchased by the consumer;
- (b) 2.2 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by the consumer; and

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

**3a.** The Minister may designate in writing any person to collect the tax imposed by this Act, and the person so designated shall be the agent of the Minister and shall collect and remit the tax to the Treasurer at the time or times and in the manner prescribed by the regulations.

Ministerial  
designation

**3. Clause 28 (1) (a) of the said Act is amended by striking out "and designating the persons by whom it is to be collected" in the second and third lines.**

**4. Subsection 28 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 4, section 6, is further amended by adding thereto the following clauses:**

- (e) defining any words in the Act that have not already been defined in the Act;

- (f) prescribing words or marks or both that shall be included on the packaging of cigarettes, cigars or other tobacco intended to be sold in Ontario, indicating that the cigarettes, cigars or other tobacco are taxable or exempt from tax under this Act, as the case may be, and prescribing the location on the packaging where such words or marks shall be located;

- (l) governing the acquisition, transportation, storage, possession and sale of marked and unmarked tobacco by dealers.

Commence-  
ment

**5. This Act shall be deemed to have come into force on the 21st day of April, 1988.**

Short title

**6. The short title of this Act is the *Tobacco Tax Amendment Act, 1988*.**

# Bill 121

## **An Act to amend the Gasoline Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

---

*1st Reading*      April 25th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill is to increase the tax on gasoline and to impose an additional tax on leaded gasoline, effective the 21st day of April, 1988.

**SECTION 1.** The terms "leaded gasoline" and "unleaded gasoline" are defined.

**SECTION 2.—Subsection 1.** The rate of tax on gasoline is increased from 8.3 cents per litre to 9.3 cents per litre.

**Subsection 2.** An additional tax of 3 cents per litre is imposed on leaded gasoline.

**Bill 121****1988****An Act to amend the Gasoline Tax Act**

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

**1. Section 1 of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:**

(ea) “leaded gasoline” means gasoline that is not unleaded gasoline and includes premium leaded gasoline that conforms to Type 1, or regular leaded gasoline that conforms to Type 2, as described in Gasoline Automotive Standard CAN/CGSB-3.1-M87 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other gasoline automotive standard for premium leaded gasoline or regular leaded gasoline as is published in replacement thereof by the Canadian General Standards Board;

(ka) “unleaded gasoline” means premium unleaded gasoline that conforms to Type 1, or regular unleaded gasoline that conforms to Type 2, as described in Gasoline Automotive Standard CAN/CGSB-3.5-M87 of the National Standards of Canada as published by the Canadian General Standards Board or such other gasoline automotive standard for premium unleaded gasoline or regular unleaded gasoline as is published in replacement thereof by the Canadian General Standards Board.

**2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out “8.3” in the second line and inserting in lieu thereof “9.3”.**

(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2 and 1985, chapter 24, section 2, is further amended by adding thereto the following subsection:

Additional  
tax on leaded  
gasoline

(2a) In addition to the tax imposed by subsection (1), every purchaser of leaded gasoline shall pay to the Treasurer a tax at the rate of 3 cents per litre on all leaded gasoline purchased by, or delivered to, the purchaser.

Commence-  
ment

**3. This Act comes into force on the 21st day of April, 1988.**

Short title

**4. The short title of this Act is the *Gasoline Tax Amendment Act, 1988*.**



# Bill 121

*(Chapter 66  
Statutes of Ontario, 1988)*

## **An Act to amend the Gasoline Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

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<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	December 7th, 1988
<i>3rd Reading</i>	December 15th, 1988
<i>Royal Assent</i>	December 15th, 1988

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**Bill 121****1988****An Act to amend the Gasoline Tax Act**

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

**1. Section 1 of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:**

(ea) “leaded gasoline” means gasoline that is not unleaded gasoline and includes premium leaded gasoline that conforms to Type 1, or regular leaded gasoline that conforms to Type 2, as described in Gasoline Automotive Standard CAN/CGSB-3.1-M87 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other gasoline automotive standard for premium leaded gasoline or regular leaded gasoline as is published in replacement thereof by the Canadian General Standards Board;

. . . . .

(ka) “unleaded gasoline” means premium unleaded gasoline that conforms to Type 1, or regular unleaded gasoline that conforms to Type 2, as described in Gasoline Automotive Standard CAN/CGSB-3.5-M87 of the National Standards of Canada as published by the Canadian General Standards Board or such other gasoline automotive standard for premium unleaded gasoline or regular unleaded gasoline as is published in replacement thereof by the Canadian General Standards Board.

**2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out “8.3” in the second line and inserting in lieu thereof “9.3”.**

**(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2 and 1985, chapter 24, section 2, is further amended by adding thereto the following subsection:**

Additional  
tax on leaded  
gasoline

**(2a) In addition to the tax imposed by subsection (1), every purchaser of leaded gasoline shall pay to the Treasurer a tax at the rate of 3 cents per litre on all leaded gasoline purchased by, or delivered to, the purchaser.**

Commence-  
ment

**3. This Act shall be deemed to have come into force on the 21st day of April, 1988.**

Short title

**4. The short title of this Act is the *Gasoline Tax Amendment Act, 1988*.**

# Bill 122

## **An Act to amend the Retail Sales Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

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*1st Reading*      April 25th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

**GENERAL.** The Bill implements the proposals contained in the Treasurer's Budget of April 20, 1988 and in addition, contains administrative changes and clarifications.

**SECTION 1.—Subsection 1.** This provision clarifies that delivery charges made by a vendor are part of the price of taxable goods delivered to the purchaser even if title to the goods has passed.

**Subsection 2.** This provision clarifies that all taxes imposed by the *Excise Tax Act* (Canada) form part of the price of taxable goods or services on which retail sales tax is paid.

**Subsection 3.** This provision clarifies that "vendor" means the person who owns or operates a place of amusement.

**SECTION 2.—Subsections 1 and 2.** These provisions increase the rate of tax to 8 per cent on purchases of tangible personal property and on taxable services other than transient accommodation, effective May 2, 1988.

**Subsection 3.** The deleted words are redundant.

**Subsection 4.** The new subsection provides that the higher rate of tax is payable on lease and option payments made after May 1, 1988.

**SECTION 3.—Subsection 1.** The amendment is similar to the amendment of clause (c) of paragraph 27 of section 1 of the Act, as set out in subsection 1 (3) of the Bill.

**Subsection 2.** The new subsection creates a specific penalty for a vendor who operates without a vendor's permit.

**SECTION 4.—Subsection 1.** The amendment results in advertising inserts and supplements becoming taxable despite being distributed as part of a newspaper.

**Subsections 2 and 3.** The temporary exemptions that were available in 1983 are now spent and so are repealed.

**SECTION 5.—Subsections 1 and 3.** These provisions clarify that those selling tangible personal property for resale must maintain records that clearly identify the purchasers and where those records are not maintained, the sale is deemed to be a retail sale so that an assessment may be made under subsection 17 (3).

**Subsection 2.** The amendment is similar to the amendments set out in subsections 1 (3) and 3 (1) of the Bill.

**SECTION 6.** This amendment authorizes an estimated assessment against a vendor for the non-collection of tax where the Act or the regulations have not been complied, as where the vendor does not maintain adequate records.

**SECTION 7.** This amendment increases the maximum penalty to \$2,500 where a purchaser understates the true price of goods purchased at a private sale.

**Bill 122**

**1988**

**An Act to amend the Retail Sales Tax Act**

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

**1.—(1)** Clause (b) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) the cost of, or charges for, customs, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price, or whether or not title has passed to the purchaser before delivery to such purchaser.

**(2)** Paragraph 4 of the said section 1 is amended by adding thereto the following clause:

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

R.S.C. 1970,  
c. E-12

**(3)** Clause (c) of paragraph 27 of the said section 1 is repealed and the following substituted therefor:

- (c) owns or operates a place of amusement.

**2.—(1)** Subsection 2 (1) of the said Act is amended by striking out “7” in the fifth line and inserting in lieu thereof “8”.

**(2)** Subsection 2 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 2 and 1986, chapter 66, section 2, is further amended by striking out “7” in the third line and inserting in lieu thereof “8”.

(3) Subsection 2 (6) of the said Act is amended by striking out “of the consideration given in payment” in the twelfth and thirteenth lines and in the seventeenth and eighteenth lines.

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

Effective  
date

(6a) For the purposes of subsection (6), tax at the rate of 8 per cent shall be computed, paid and collected on the due date of any payment to be made on or after the 2nd day of May, 1988.

3.—(1) Subsection 3 (1) of the said Act is amended by inserting after “service or” in the second line “own or”.

(2) Subsection 3 (6) of the said Act is repealed and the following substituted therefor:

Offence and  
penalty

(6) Every vendor who fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$100 for each day or part of a day on which the offence occurs or continues.

4.—(1) Paragraph 54 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

54. newspapers, however purchased, but not advertising inserts or supplements to be included in newspapers.

(2) Paragraph 76 of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1983, chapter 27, section 4 and amended by 1983, chapter 81, section 1, is repealed.

(3) Paragraph 77 of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1983, chapter 27, section 4 and amended by 1983, chapter 48, section 1 and 1983, chapter 81, section 1, is repealed.

5.—(1) Subsection 14 (1) of the said Act is amended by inserting after “resale” in the fourth line “which records clearly identify the persons to whom sales for resale are made”.

(2) Subsection 14 (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is amended by inserting after “vendor who” in the first line “owns or”.



(3) Section 14 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 7, is further amended by adding thereto the following subsection:

(4) Where any person whose records fail to clearly identify the persons to whom sales for resale are made, the sales of tangible personal property disclosed in the records shall be deemed to have been retail sales. Deemed  
retail sales

6. Subsection 16 (2) of the said Act is amended by inserting after "purchaser" in the sixth line and in the tenth line in each instance "or the penalty imposed by subsection 17 (3)".

7. Clause 17 (5) (b) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 8, is further amended by striking out "\$2,000" in the amendment of 1983 and inserting in lieu thereof "\$2,500".

8. This Act comes into force on the 2nd day of May, 1988. Commence-  
ment

9. The short title of this Act is the *Retail Sales Tax Amendment Act, 1988*. Short title







# Bill 122

*(Chapter 15  
Statutes of Ontario, 1989)*

## **An Act to amend the Retail Sales Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

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<i>1st Reading</i>	April 25th, 1988
<i>2nd Reading</i>	December 7th, 1988
<i>3rd Reading</i>	March 1st, 1989
<i>Royal Assent</i>	March 2nd, 1989

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**Bill 122**

**1988**

**An Act to amend the Retail Sales Tax Act**

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

**1.—(1) Clause (b) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

- (b) the cost of, or charges for, customs, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price, or whether or not title has passed to the purchaser before delivery to such purchaser.

**(2) Paragraph 4 of the said section 1 is amended by adding thereto the following clause:**

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

R.S.C. 1985,  
c. E-15

**(3) Clause (c) of paragraph 27 of the said section 1 is repealed and the following substituted therefor:**

- (c) owns or operates a place of amusement.

**2.—(1) Subsection 2 (1) of the said Act is amended by striking out “7” in the fifth line and inserting in lieu thereof “8”.**

**(2) Subsection 2 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 2 and 1986, chapter 66, section 2, is further amended by striking out “7” in the third line and inserting in lieu thereof “8”.**

(3) Subsection 2 (6) of the said Act is amended by striking out “of the consideration given in payment” in the twelfth and thirteenth lines and in the seventeenth and eighteenth lines.

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

Effective  
date

(6a) For the purposes of subsection (6), tax at the rate of 8 per cent shall be computed, paid and collected on the due date of any payment to be made on or after the 2nd day of May, 1988.

3.—(1) Subsection 3 (1) of the said Act is amended by inserting after “service or” in the second line “own or”.

(2) Subsection 3 (6) of the said Act is repealed and the following substituted therefor:

Offence and  
penalty

(6) Every vendor who fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$100 for each day or part of a day on which the offence occurs or continues.

4.—(1) Paragraph 54 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

54. newspapers, however purchased, but not advertising inserts or supplements to be included in newspapers.

(2) Paragraph 76 of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1983, chapter 27, section 4 and amended by 1983, chapter 81, section 1, is repealed.

(3) Paragraph 77 of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1983, chapter 27, section 4 and amended by 1983, chapter 48, section 1 and 1983, chapter 81, section 1, is repealed.

5.—(1) Subsection 14 (1) of the said Act is amended by inserting after “resale” in the fourth line “which records clearly identify the persons to whom sales for resale are made”.

(2) Subsection 14 (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is amended by inserting after “vendor who” in the first line “owns or”.



**(3) Section 14 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 7, is further amended by adding thereto the following subsection:**

**(4) Where any person whose records fail to clearly identify the persons to whom sales for resale are made, the sales of tangible personal property disclosed in the records shall be deemed to have been retail sales.**

Deemed  
retail sales

**6. Subsection 16 (2) of the said Act is amended by inserting after "purchaser" in the sixth line and in the tenth line in each instance "or the penalty imposed by subsection 17 (3)".**

**7. Clause 17 (5) (b) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 8, is further amended by striking out "\$2,000" in the amendment of 1983 and inserting in lieu thereof "\$2,500".**

**8. This Act shall be deemed to have come into force on the 2nd day of May, 1988.**

Commence-  
ment

**9. The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*.**

Short title







# Bill 123

## **An Act for Informed Choice by Patients**

Mr. Dietsch

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*1st Reading*      April 25th, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTE

The Bill establishes several administrative procedures governing the manner in which Ontario hospitals provide services and facilities for the performance of abortions in Ontario. The Bill requires that a patient be provided with information concerning the life condition of an unborn child, the risks that may result from the abortion and the social services available to care for the child before consenting to an abortion operation. Where a physician determines that an unborn child has potential to remain alive outside the womb of the mother, the physician shall use medical procedures designed to maintain the life of the child. A second physician must be in attendance in these circumstances. The Bill provides that no physician or nurse shall be dismissed or disciplined for a refusal to participate in an abortion due to objections based on moral or ethical grounds. The Bill further provides for a continuous review by the Minister of Health of abortions performed in Ontario to ensure compliance with the laws relating to the performance of abortions.

**Bill 123****1988****An Act for Informed Choice by Patients**

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

**1.** In this Act,

Definitions

“abortion” means a medical or surgical procedure performed to terminate pregnancy;

“hospital” means a public or private hospital;

“Minister” means the Minister of Health;

“Ministry” means the Ministry of Health;

“physician” means a legally qualified medical practitioner.

**2.** The purpose of this Act is to establish administrative procedures for hospitals applicable to the performance of abortions in Ontario. Purpose

**3.—(1)** An attending physician who is responsible for the performance of an abortion shall, before performing the abortion, Assessment by physician

- (a) make an assessment of the potential for the unborn child to remain alive outside the womb of the patient, either naturally or by means of artificial life-support systems; and

- (b) report the results of the assessment to the patient.

(2) In addition to the information given to a patient under subsection (1), every attending physician shall give to the patient, before performing the abortion, an information statement setting forth, in a manner that is readable and comprehensible to the patient, Information statement

- (a) a description of the life condition and development of the unborn child at the time of the operation;
- (b) the nature and likelihood of any risk of physical and emotional harm that may be suffered by the patient as a result of the abortion; and
- (c) a description of the agencies and social services available to assist the patient during pregnancy and after the birth of the child, in case the patient decides not to have the abortion, whether the patient wishes to keep the child or place the child for adoption.

Copy to be  
signed by  
patient

(3) A copy of the information statement shall be signed by the patient, and a copy given to the patient.

Consent

(4) No consent given by a patient authorizing the performance of an abortion is valid and binding unless the patient has been provided with the physician's assessment and the information statement more than twenty-four hours before the consent is given.

Medical  
procedures

**4.—(1)** Where the attending physician determines that the unborn child has potential for life outside the womb of the patient, the physician shall use all reasonable medical procedures that are most likely to preserve the life of the unborn child unless such procedures would or would likely endanger the life of or cause serious and permanent injury to the physical health of the patient.

Second  
physician

(2) Where the attending physician has determined that the unborn child has potential for life outside the womb of the patient, a second physician shall be in attendance during the operation to take care of and give immediate medical attention to the child born as a result of the abortion.

Physician's  
report

**5.** After the performance of an abortion, the attending physician shall prepare and forward to the chief administrative officer of the hospital a detailed report concerning the medical procedures used and the results of the abortion performed by the physician.

Conscientious  
objection

**6.** No physician, nurse or other person shall be dismissed or disciplined for a refusal to perform or participate in the performance of an operation for an abortion where the reason for the refusal is a *bona fide* objection on moral or ethical grounds to the performance of the operation.



7.—(1) The medical record compiled for each patient admitted to a hospital for the purpose of having an abortion shall include, Medical record

- (a) the physician's assessment referred to in section 3;
- (b) the information statement given to the patient;
- (c) a consent in writing authorizing the abortion signed by the patient; and
- (d) the physician's report referred to in section 5.

(2) The medical records compiled by a hospital in respect of the abortions performed in the hospital shall be made available by the hospital for inspection by the Ministry to ensure compliance with this Act, and the Minister shall provide for such inspection at least once during every six-month period. Inspection

(3) The Minister may designate one or more employees of the Ministry to be inspectors for the purposes of this Act. Inspectors

(4) When conducting an inspection, the inspector shall inspect each medical record compiled for an abortion performed since the previous inspection and may inspect any other medical record compiled for an abortion for the purposes of this Act. Idem

(5) Where an inspector has reasonable cause to believe that a contravention of this Act has occurred, the inspector shall make a detailed report concerning the matter to the Minister who may take such action as the Minister considers appropriate in the circumstances. Report to Minister

8. Every inspector shall preserve secrecy in respect of all matters that come to his or her knowledge in the course of his or her duties and inspection and shall not communicate any such matters to any other person unless, Confidentiality

- (a) it is required in connection with the administration of this Act;
- (b) the patient consents; and
- (c) the Minister gives his or her approval.

Commence-  
ment

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

Short title

**10.** The short title of this Act is the *Informed Choice by Patients Act, 1988*.





# Bill 124

## **An Act to amend the Children's Law Reform Act**

The Hon. I. Scott  
*Attorney General*

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*1st Reading*      April 26th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

**Section 6 of the Bill** adds section 35a to the Act, creating what is intended to be a speedy remedy for access difficulties.

If an existing court order provides for access to a child at specific times or on specific days (or if a separation agreement containing specific access provisions has been filed with the Provincial Court (Family Division) or the Unified Family Court), a person who claims that he or she was wrongfully denied access to the child may make a motion to the court.

The motion will be heard within ten days of being served. It can only be made within thirty days after the alleged denial of access. Normally the hearing will deal only with oral evidence relating directly to the alleged denial of access and the reasons for it. This is intended to ensure expeditious hearings.

If the court is satisfied that a wrongful denial of access took place, it may make a variety of orders, including an order for compensatory access, supervision or (if the parties agree) mediation. It is also possible for the court to order that the moving party be reimbursed for reasonable expenses actually incurred as a result of the denial of access.

Similar remedies are available for a person with custody who claims that a person with a right of access failed, without reasonable notice and excuse, to exercise the right of access or to return the child as the order requires.

Denial of access is wrongful unless it is justified by a legitimate reason. Criteria are provided to assist the court in determining whether a reason is legitimate.

The new remedy created in section 35a of the Act is not available if the access order or separation agreement fails to specify times or days when access is to be exercised. **Section 3 of the Bill** adds section 28a to the Act, to provide a mechanism for varying those orders and agreements by specifying times or days. Access provisions that have been varied in this way can then be enforced under new section 35a.

**Section 4 of the Bill** makes a related amendment to section 29 of the Act (which provides that custody and access orders may not be varied unless there has been a material change in circumstances). The amendment clarifies that this restriction does not apply to orders made under section 28a or 35a.

**Section 1 of the Bill** amends section 20 of the Act by adding a new subsection. Proposed subsection 20 (4a) provides that when parents have separated and one has custody and the other is entitled to access under the terms of a separation agreement or order, it is the duty of each to encourage and support the child's continuing parent-child relationship with the other.

**Section 2 of the Bill** amends section 24 of the Act to make it clear that the overriding principle of the best interests of the child, which governs applications under Part III of the Act (Custody, Access and Guardianship), also governs enforcement motions under proposed section 35a.

Subsection 24 (2) of the Act is re-enacted with minor wording changes and the addition of a new clause (d), stating that a person's ability to act as a parent is to be taken into account in custody and access proceedings. Subsection 24 (3) (past conduct) is replaced by new subsections (3) and (4). New subsection (3) specifically provides that the fact that a person has committed acts of domestic violence shall be considered in assessing his or her ability to act as a parent. New subsection (4) (based on existing subsection (3)) provides that other kinds of past conduct may be considered only if the court is satisfied that they are relevant to the person's ability to act as a parent.

**Section 5 of the Bill** rewords subsection 31 (10) of the Act (which deals with payment of mediators' fees) to match more closely the wording of subsection 3 (8) of the *Family*

*Law Act, 1986. Section 7 of the Bill* rewords subsection 36 (1) of the Act (which deals with restraining orders) to match more closely the wording of subsection 46 (1) of the 1986 Act.





**Bill 124**

**1988**

**An Act to amend the Children's Law Reform Act**

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

**1.** Section 20 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following subsection:

(4a) Where the parents of a child live separate and apart and the child is in the custody of one of them and the other is entitled to access under the terms of a separation agreement or order, each shall, in the best interests of the child, encourage and support the child's continuing parent-child relationship with the other.

Duty of separated parents

**2.—(1)** Subsection 24 (1) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by inserting after "application" in the first line "or motion".

**(2)** Subsections 24 (2) and (3) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, are repealed and the following substituted therefor:

(2) In determining the best interests of a child for the purpose of an application or motion under this Part in respect of custody of or access to a child, a court shall consider all the child's needs and circumstances, including,

Best interests of child

- (a) the love, affection and emotional ties between the child and,
  - (i) each person seeking custody or access,
  - (ii) other members of the child's family residing with him or her, and
  - (iii) persons involved in the child's care and upbringing;

- (b) the child's views and preferences, if they can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the ability of each person seeking custody or access to act as a parent;
- (e) the ability and willingness of each person seeking custody to provide the child with guidance, education and necessities of life and to meet any special needs of the child;
- (f) any plans proposed for the child's care and upbringing;
- (g) the permanence and stability of the family unit with which it is proposed that the child will live; and
- (h) the relationship, by blood or through an adoption order, between the child and each person who is a party to the application or motion.

Domestic violence to be considered

(3) In assessing a person's ability to act as a parent, the court shall consider the fact that the person has at any time committed violence against his or her spouse or child, against his or her child's parent or against another member of the person's household.

Restrictions on consideration of other past conduct

(4) Other than the conduct referred to in subsection (3), a person's past conduct may be considered only if the court is satisfied that it is relevant to the person's ability to act as a parent.

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

Application to fix times or days of access

**28a.**—(1) If an order in respect of access to a child provides for a person's access to the child without specifying times or days, a party to the order may apply to a court to vary the order by specifying times or days.

Order

(2) The court may vary the order by specifying the times or days agreed to by the parties, or the times or days the court considers appropriate if the parties do not agree.

Separation agreements

1986, c. 4

(3) Subsection (1) also applies, with necessary modifications, in respect of a separation agreement under section 54 of the *Family Law Act, 1986* or a predecessor of that section that

provides for a person's access to a child without specifying times or days.

(4) Subsection (1) does not apply in respect of orders made under the *Divorce Act, 1985* (Canada) or a predecessor of that Act. Exception  
S.C. 1986,  
c. 4

**4. Section 29 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following subsection:**

(2) Subsection (1) does not apply in respect of orders made under subsection 28a (2) (fixing times or days of access) or 35a (2) or (6) (access enforcement, etc.). Exception

**5. Subsection 31 (10) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:**

(10) The court may require one party to pay all the mediator's fees and expenses if the court is satisfied that payment would cause the other party or parties serious financial hardship. Idem, serious  
financial  
hardship

**6. The said Act is further amended by adding thereto the following section:**

**35a.—**(1) A person in whose favour an order has been made for access to a child at specific times or on specific days and who claims that a person in whose favour an order has been made for custody of the child has wrongfully denied him or her access to the child may make a motion for relief under subsection (2) to the court that made the access order. Motion to  
enforce right  
of access

(2) If the court is satisfied that the responding party wrongfully denied the moving party access to the child, the court may, by order, Order for  
relief

- (a) require the responding party to give the moving party compensatory access to the child for the period agreed to by the parties, or for the period the court considers appropriate if the parties do not agree;
- (b) require supervision as described in section 35;
- (c) require the responding party to reimburse the moving party for any reasonable expenses actually incurred as a result of the wrongful denial of access;

- (d) appoint a mediator in accordance with section 31 as if the motion were an application for access.

Period of  
compensatory  
access

- (3) A period of compensatory access shall not be longer than the period of access that was wrongfully denied.

What  
constitutes  
wrongful  
denial of  
access

- (4) A denial of access is wrongful unless it is justified by a legitimate reason such as one of the following:

1. The responding party believed on reasonable grounds that the child might suffer physical or emotional harm if the right of access were exercised.
2. The responding party believed on reasonable grounds that he or she might suffer physical harm if the right of access were exercised.
3. The responding party believed on reasonable grounds that the moving party was impaired by alcohol or a drug at the time of access.
4. The moving party failed to present himself or herself to exercise the right of access within one hour of the time specified in the order or the time otherwise agreed on by the parties.
5. The responding party believed on reasonable grounds that the child was suffering from an illness of such a nature that it was not appropriate in the circumstances that the right of access be exercised.
6. The moving party did not satisfy written conditions concerning access that were agreed to by the parties or that form part of the order for access.
7. On numerous occasions during the preceding year, the moving party had, without reasonable notice and excuse, failed to exercise the right of access.
8. The moving party had informed the responding party that he or she would not seek to exercise the right of access on the occasion in question.

Motion re  
failure to  
exercise of  
right of  
access, etc.

- (5) A person in whose favour an order has been made for custody of a child and who claims that a person in whose favour an order has been made for access to the child has, without reasonable notice and excuse, failed to exercise the right of access or to return the child as the order requires, may make a motion for relief under subsection (6) to the court that made the access order.

(6) If the court is satisfied that the responding party, without reasonable notice and excuse, failed to exercise the right of access or to return the child as the order requires, the court may, by order,

Order for relief

- (a) require supervision as described in section 35;
- (b) require the responding party to reimburse the moving party for any reasonable expenses actually incurred as a result of the failure to exercise the right of access or to return the child as the order requires;
- (c) appoint a mediator in accordance with section 31 as if the motion were an application for access.

(7) A motion under subsection (1) or (5) shall be heard within ten days after it has been served.

Speedy hearing

(8) A motion under subsection (1) or (5) shall not be made more than thirty days after the alleged wrongful denial or failure.

Limitation

(9) The motion shall be determined on the basis of oral evidence only, unless the court gives leave to file an affidavit.

Oral evidence only

(10) At the hearing of the motion, unless the court orders otherwise, evidence shall be admitted only if it is directly related to,

Scope of evidence at hearing limited

- (a) the alleged wrongful denial of access or failure to exercise the right of access or return the child as the order requires; or
- (b) the responding party's reasons for the denial or failure.

(11) A person who is a party to a separation agreement made under section 54 of the *Family Law Act, 1986* or a predecessor of that section may file the agreement with the clerk of the Provincial Court (Family Division) or of the Unified Family Court, together with the person's affidavit stating that the agreement is in effect and has not been set aside or varied by a court or agreement.

Separation agreement may be filed with court 1986, c. 4

(12) When a separation agreement providing for access to a child at specific times or on specific days is filed in this manner, subsections (1) and (5) apply as if the agreement were an order of the court where it is filed.

Effect of filing

Motions  
made in bad  
faith

(13) If the court is satisfied that a person has made a motion under subsection (1) or (5) in bad faith, the court may prohibit him or her from making further motions without leave of the court.

Idem  
S.C. 1986,  
c. 4

(14) Subsections (1) and (5) do not apply in respect of orders made under the *Divorce Act, 1985* (Canada) or a predecessor of that Act.

Application

(15) Subsections (1) and (5) do not apply in respect of a denial of access or a failure to exercise a right of access or to return a child as the order or agreement requires that takes place before the day section 6 of the *Children's Law Reform Amendment Act, 1988* comes into force.

1988, c....

**7. Subsection 36 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 8, section 4, is repealed and the following substituted therefor:**

Order  
restraining  
harassment

(1) On application, a court may make an interim or final order restraining a person from molesting, annoying or harassing the applicant or children in the applicant's lawful custody, or from communicating with the applicant or children, except as the order provides, and may require the person to enter into the recognizance that the court considers appropriate.

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 *Children's Law Reform Amendment Act, 1988*.**







# Bill 125

## **An Act to amend the Education Act and certain other Acts related to Education**

The Hon. C. Ward  
*Minister of Education*

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*1st Reading*      April 26th, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

The purpose of the Bill is to change the basis of trustee distribution from property assessment to representation by population.

The principal sections of the Act that deal with trustee representation are repealed and a new Part VII-A is enacted so as to bring all the sections together in one place.

Amendments are also made to certain Acts that establish the various regional municipalities and to the *County of Oxford Act* to ensure that the Acts are consistent with the new Part.

The amendments to the *Municipality of Metropolitan Toronto Act* provide for representation based on population and remove references to members elected by separate school electors.

Some features of the new Part are as follows:

1. The total size of a board is based on the sum of the populations of electoral groups (i.e. electors, supporters and their dependants) to be represented on the board. This total population then determines in a uniform manner the number of members that will comprise the board.
2. Two schedules are established that determine board size. One schedule applies to all single-tier boards, the other applies to boards within a two-tier governance structure.
3. The number of members that will comprise the board is distributed among the electoral groups of the board based on the proportion that each group's population is of the total population of all electoral groups of the board.
4. The Bill preserves the minimum guaranteed representation of three members for minority language sections already in the Act.
5. The minimum number of members on a board will be eight members and the maximum twenty-five.
6. The new provisions will apply to all boards of education, urban separate school boards and county and district combined separate school boards.

Bill 125

1988

**An Act to amend the Education Act and  
certain other Acts related to Education**

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

**1. Paragraph 37 of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

37. "population" means the population as determined by the latest enumeration taken under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,  
c. 31

**2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:**

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

- (a) prescribing the persons who shall make the determinations that are required to be made under subsections 206a (6) and (8) and the distribution that is required to be made under subsection 206a (12) and an alternative distribution that is required to be made under subsection 206a (18) and the manner in which and the time by which they shall be made;
- (b) governing the distribution of information that relates to the determinations that are required to be made under subsections 206a (6) and (8) and distributions that are required to be made under subsection 206a (12) and an alternative distribution that is required to be made under subsection 206a (18) and information that relates to appeals and applications with respect to such determinations and distributions;

- (c) governing the nomination procedures for the election of members to boards from areas, including electoral areas established under subsections 277i (3) and (4), that are composed of all or part of two or more municipalities;
- (d) prescribing the duties to be performed by the clerks of the municipalities referred to in clause (c) and by the secretaries of boards in respect of nominations and elections.

Consistency  
with  
*Municipal  
Elections Act*  
R.S.O. 1980,  
c. 308

(11) A regulation made under clause (10) (c) or (d) shall not be inconsistent with the *Municipal Elections Act* except to the extent necessary to ensure that the nominations and the election referred to in those clauses are carried out in an efficient and orderly manner.

**3.** Subsection 53 (4) of the said Act is amended by striking out “pursuant to subsection 59 (9)” in the fifth line and inserting in lieu thereof “under subsection 206a (12) or (18)”.

**4.** Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following clause:

- (f) provide for the continuation of representation when a municipality is detached from one school division and added to another.

**5.—(1)** Subsection 55 (1) of the said Act is amended by striking out “sections 52 to 59” in the third and fourth lines and inserting in lieu thereof “sections 52 to 56, section 136i, and Parts VII-A and XI-A”.

(2) Subsection 55 (4) of the said Act is amended by inserting after “board” in the first line “other than a member of a French-language or English-language section”.

**6.** Subsections 56 (4), (5), (6), (7) and (8) of the said Act are repealed.

**7.** Sections 57 and 58 of the said Act are repealed.

**8.** Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16 and 1984, chapter 60, section 6, is repealed.

**9.** Section 61 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 17, is repealed.

**10.** Subsection 83 (6) of the said Act is repealed.

**11.** Subsection 88 (3) of the said Act is amended by striking out “section 90 or 100” in the eighth line and inserting in lieu thereof “section 100 or subsection 206a (7)”.

**12.** Subsection 90 (1), as amended by the Statutes of Ontario, 1982, chapter 32, section 27, and subsections 90 (2) and (3) of the said Act are repealed.

**13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 28, is repealed.

**14.** Section 92 of the said Act is repealed.

**15.—(1)** Subsection 103 (4) of the said Act is amended by striking out “section 90” in the fifth line and inserting in lieu thereof “subsection 206a (7)”.

**(2)** Subsection 103 (7) of the said Act is amended by striking out “subsection 113 (21)” in the fifth line and inserting in lieu thereof “subsection 206a (12) or (18)”.

**16.—(1)** Subsection 105 (2) of the said Act is amended by adding thereto the following clause:

- (d) provide for the continuation of representation when a municipality is detached from one combined school zone and added to another.

**(2)** Subsection 105 (4) of the said Act is amended by striking out “sections 113 to 115” in the last line and inserting in lieu thereof “sections 115 and 206a”.

**17.** Subsection 106 (2) of the said Act is repealed.

**18.** Subsections 110 (4), (5), (6), (7) and (8) of the said Act are repealed.

**19.** Subsection 112 (3) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 18, is repealed.

**20.** Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37 and 1984, chapter 60, section 7, is repealed.

**21.** Subsection 115 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

**22.—(1)** Subsection 116 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

(2) Subsection 116 (2) of the said Act is amended by striking out “and shall consist of sixteen trustees” in the third and fourth lines.

(3) Subsections 116 (3), (4), (5) and (6) of the said Act are repealed.

**23.** Subsection 144 (2) of the said Act is amended by inserting after “Part IV” in the sixth line “and Part VII-A”.

**24.** The said Act is amended by adding thereto the following Part:

## PART VII-A

### TRUSTEE REPRESENTATION

#### *Public and Separate School Boards*

#### Definitions

**206a.—(1)** In this Part,

“board” means a board of education, an urban separate school board, a district combined separate school board or a county combined separate school board;

“coterminous Roman Catholic separate school board” means a Roman Catholic separate school board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a public board;

“electoral group” of a board means a category of persons that reside within the area of jurisdiction of the board;

“public school electoral group” means the electoral group that comprises exclusively persons who are public school supporters or public school electors and includes the dependants of the public school supporters and public school electors;

“public school English-language electoral group” means the part of the public school electoral group that comprises exclusively persons who are not members of the public school French-language electoral group;

“public school French-language electoral group” means the part of the public school electoral group that comprises

exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms* to have their children receive their primary and secondary school instruction in the French language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“public school supporter” means a ratepayer who is not a separate school supporter;

“separate school electoral group” means the electoral group that comprises exclusively persons who are separate school supporters or separate school electors and includes the dependants of the separate school supporters and separate school electors;

“separate school English-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who are not members of the separate school French-language electoral group;

“separate school French-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms*, to have their children receive their primary and secondary school instruction in the French-language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“total English-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school English-language electoral group and the separate school English-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school English-language electoral group,
- (c) for a separate school board, the separate school English-language electoral group;

“total French-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school French-language electoral group and the separate school French-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school French-language electoral group,
- (c) for a separate school board, the separate school French-language electoral group.

Idem

(2) For the purposes of a board that has jurisdiction in The Municipality of Metropolitan Toronto, in this Part, "public school English-language electoral group" means the public school electoral group except for those persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms* to have their children receive their primary and secondary school instruction in the French-language in Ontario and who choose to vote only for members of The Metropolitan Toronto French-language School Council and includes the dependants of those persons who so choose to vote.

Elections

(3) The election of members of a board shall be conducted by the same officers and in the same manner as the election of members of the council of a municipality.

Change of boundaries

(4) The boundaries of the area of jurisdiction of a board or of a municipality that are to be altered as a result of,

- (a) a regulation made under subsection 54 (1) or 105 (2);
- (b) the establishment of a separate school zone under section 107;
- (c) an order of the Ontario Municipal Board;
- (d) an order of the Lieutenant Governor in Council under the *Municipal Boundary Negotiations Act, 1981*; or
- (e) any other Act,

1981, c. 70



on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so altered.

R.S.O. 1980  
c. 308

(5) A new city that is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so erected.

New city

(6) Subject to the increased number of members that may result from the application of rules 11, 12 and 13 of subsection (9) and the additional person that may be appointed by the board under section 165 to represent the interests of Indian pupils, the number of members on a board shall be determined in accordance with subsection (7) by the person prescribed by the regulations.

Number of  
members on  
a board

(7) A determination of the number of members on a board shall be made using the following rules, that shall be applied in order beginning with rule 1:

Rules for  
determination

1. For a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. The total population of all electoral groups of the board shall be equal to the sum of the populations of the public school electoral group and the separate school electoral group.
4. Subject to rule 6, the total number of members of a divisional board, an urban separate school board, a district combined separate school board or a county combined separate school board shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 5,000 persons	8
5,000 or more, up to and including 8,999 persons	10
9,000 or more, up to and including 14,999 persons	12
15,000 or more, up to and including 49,999 persons	14
50,000 or more, up to and including 115,999 persons	15
116,000 or more, up to and including 182,999 persons	17
183,000 or more, up to and including 282,999 persons	18
283,000 or more, up to and including 482,999 persons	19
483,000 or more persons	20

- Subject to rule 6, the total number of members on a board of education that is not a divisional board shall be the number of members as set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 140,000 persons	8
140,000 or more, up to and including 234,999 persons	10
235,000 or more, up to and including 329,999 persons	13
330,000 or more, up to and including 424,999 persons	16
425,000 or more persons	19

6. Where a board approves, by a resolution passed by an affirmative vote of three-quarters of the members of the board in the year immediately preceding the year of a regular election under the *Municipal Elections Act* or before the 1st day of July, 1988, an increase or decrease of either one or two in the number of members of the board, the number of members of the board shall be deemed to be so increased or decreased for the next two subsequent regular elections.

R.S.O. 1980,  
c. 308

- (8) The number of members to be elected at each regular election under the *Municipal Elections Act* by the electors for each of the electoral groups of a board shall be determined in accordance with subsection (9) by the person prescribed by the regulations.

Number of  
members for  
each electoral  
group of a  
board

- (9) A determination referred to in subsection (8) shall be made using the following rules, that shall apply in order starting with rule 1:

Rules for  
determination

1. For a public board, where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. If the board is not required to establish either a French-language or English-language section under Part XI-A then,
  - i. the population of the public school French-language electoral group shall be added to the population of the public school English-language electoral group and this total population shall be deemed to be the population of the public school English-language electoral group for the purposes of the subsequent rules in this subsection,
  - ii. the population of the separate school French-language electoral group shall be added to the population of the separate school English-language electoral group and this total population shall be deemed to be the population of the separate school English-language group

for the purposes of the subsequent rules in this subsection, and

- iii. the population of the total French-language electoral group shall be deemed to be zero.
4. If the board is required to establish an English-language section under Part XI-A, a reference in rule 5, 6 or 7 to English-language shall be deemed to be a reference to French-language and a reference to French-language shall be deemed to be a reference to English-language.
5. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with the formula set out in subsection (10).
6. The number of members to be elected by the electors of the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (10).
7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with the formula set out in subsection (10).
8. Where the sum of the number of members obtained using rules 5, 6 and 7 is less than the total number of members determined by the rules in subsection (7), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (10) differs from the next lower integer by the greatest amount shall be increased by one.
9. Where the sum of the number of members obtained using rules 5, 6 and 7 is greater than the total number of members determined by the rules in subsection (7), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (10) differs from the next higher integer by the greatest amount shall be decreased by one.
10. Where rule 8 or 9 is applied but cannot operate because the numbers of members calculated under subsection (10) for two or more electoral groups differ from the applicable integers by the same

amount, the electoral group that shall have its number of members increased or decreased by one member shall be the largest electoral group.

11. Where the number of members calculated under rule 5 is less than three but greater than zero, then the number of members shall be deemed to be three.
12. Where the number of members calculated under rule 6 is less than three but greater than zero, then the number of members shall be deemed to be three.
13. Where the number of members calculated under rule 7 is less than one but greater than zero, then the number of members shall be deemed to be one.

(10) For the purposes of rules 5, 6 and 7 of subsection (9), the number of members shall be calculated using the following formula:

Calculation of number of members for purposes of rules 5, 6 and 7

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (7)

b = the population of the electoral group to which the rule applies

c = the total population of all electoral groups of the board determined under rule 3 of subsection (7).

(11) For the purposes of rules 5, 6 and 7 of subsection (9) and rule 2 of subsection (19), the calculation shall be correct to the nearest integer with the fraction one-half being raised to the next higher integer.

Idem

(12) After the determinations required under this section are made, a distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (13) by the person prescribed by the regulations to,

Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or

- (b) the electoral areas established under subsection (22) or combination of such electoral areas in a municipality.

Rules for  
distribution

(13) A distribution shall be made separately for each electoral group for which a distribution is not otherwise provided under section 277i or subsection 277t (1) according to the following rules that shall be applied in order beginning with rule 1:

1. Calculate the electoral quotient for each municipality and electoral area using the following formula:

$$\text{electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the total number of members that represents the electors of the electoral group calculated by the rules in subsection (9)

c = the total population of the electoral group.

2. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its electoral quotient.
3. Two or more adjoining municipalities or two or more adjoining electoral areas within a municipality may be combined so that the sum of the electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
4. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas within a municipality shall be as nearly as practicable, the sum of the electoral quotients of the municipalities or electoral areas so combined.

Designation  
by board

(14) A board may by a resolution passed by an affirmative vote of three-quarters of the members of the board designate one or more municipalities wholly or partly within the area of

jurisdiction of the board as a low population municipality or municipalities.

(15) Where a board has made a designation under subsection (14), the members of the board who represent an electoral group may direct, by a resolution passed by an affirmative vote of three-quarters of those members, that,

Resolution  
by members  
representing  
electoral  
group

- (a) an alternative distribution of members representing that electoral group be made to the municipality or municipalities designated by the board under subsection (14); and
- (b) the sum of the electoral quotients for the municipality or municipalities be increased by one or by two.

(16) A resolution passed under subsection (14) or (15) shall be passed in the year of a regular election under the *Municipal Elections Act* and shall be effective only for the purposes of the regular election to be held in that year.

Effect of  
resolution  
R.S.O. 1980,  
c. 308

(17) A resolution under subsection (14) or (15) has no effect unless it is made not later than five days after the date on which a distribution under subsection (12) is required to be made.

Idem

(18) Pursuant to a resolution passed by the members of an electoral group of a board under subsection (15), an alternative distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (19) by the person prescribed by the regulations to,

Distribution  
of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (22) or combination of such electoral areas in a municipality.

(19) An alternative distribution for an electoral group shall be made according to the following rules that shall be applied in order beginning with rule 1:

Rules for  
distribution

1. Place the municipalities in two groups, one of which shall be comprised of the municipality or municipalities designated under subsection (14) and one of which shall be comprised of the remaining municipalities.

2. Calculate the sum of the electoral quotients, determined under subsection (13), for each group of municipalities.
3. For the group of municipalities that is designated under subsection (14), add to the sum of the electoral quotients the number one or two as determined by resolution of the electoral group passed under subsection (15).
4. For the group of the remaining municipalities, subtract from the sum of the electoral quotients one or two, as the case may be.
5. Calculate the alternative electoral quotient for each municipality and electoral area using the following formula:

$$\text{alternative electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the number calculated by rule 3 or 4, as the case requires

c = the total population of the electoral group resident in the group of municipalities to which the municipality or electoral area belongs.

6. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its alternative electoral quotient.
7. Two or more adjoining municipalities that were placed under rule 1 in the same group or two or more adjoining electoral areas within a municipality may be combined so that the sum of the alternative electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
8. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas shall be, as nearly as practicable, the sum of the alterna-



tive electoral quotients of the municipalities or electoral areas so combined.

(20) An alternative distribution of those members that represent the electors of an electoral group that is made under subsection (18) shall, in lieu of the distribution that is required to be made under subsection (12), be the distribution for those members at the next regular election under the *Municipal Elections Act* and for the purposes of sections 206b and 206c shall be deemed to be a distribution made under subsection 206a (12).

Effect of  
alternative  
distribution

R.S.O. 1980,  
c. 308

(21) The members representing an electoral group for a municipality shall be elected by general vote of the electors eligible to vote in the municipality for those members.

Election by  
general vote

(22) Notwithstanding subsection (21), where the number of members representing an electoral group to be elected under that subsection may be two or more, the council of the municipality may, where so requested by the board, by by-law divide the municipality into two or more electoral areas for the purposes of an election under the *Municipal Elections Act* and a member representing an electoral group for an electoral area shall be elected by general vote of the electors eligible to vote in the electoral area for that member.

Electoral  
areas in a  
municipality

(23) A by-law referred to in subsection (22) and a by-law repealing any such by-law shall not be passed later than the 1st day of February in the year of a regular election under the *Municipal Elections Act* and shall take effect for the purpose of the regular election next following the passing of the by-law and remain in force until repealed.

Time for  
passing by-  
law

(24) Notwithstanding section 277i, where a municipality is divided into wards, an electoral area may include one or more wards but each ward shall be located entirely within the electoral area.

Wards in  
electoral  
areas

(25) Where two or more municipalities or electoral areas are combined for the election of one or more members who represent an electoral group, the member or members shall be elected by a general vote of the electors eligible to vote in the combined municipalities or combined electoral areas, as the case may be, for those members.

Election in  
combined  
municipalities

### *Appeal*

**206b.**—(1) After the determinations are made as required under subsections 206a (6) and (8) and the distribution is made as required under subsection 206a (12) with respect to a

Appeal

board, the determinations and the distribution or the distribution may be appealed to a judge.

Idem

(2) An appeal under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Appeal on distribution

(3) An appeal on a distribution only may be made only where the distribution allots to a municipality or to a combination of municipalities a number of members to be elected by the electors of an electoral group that is different from the electoral quotient of the municipality or the sum of the electoral quotients for the combined municipalities by an amount that is greater than 0.05 times the total number of members to be elected by the electoral group.

Time for appeal

(4) An appeal shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for decision

(5) The judge shall make a decision with respect to an appeal within thirty days after the appeal is commenced.

Decision of judge on appeal

(6) The judge on an appeal under this section may,

- (a) vary a determination or distribution that is the subject of the appeal; or
- (b) confirm that a determination or distribution that is the subject of the appeal was made in accordance with section 206a.

Idem

(7) The decision of a judge on an appeal under this section is final and the appropriate person prescribed by the regulations to make the determination or distribution shall forthwith make such changes as the judge requires.

Where no appeal

(8) Where an appeal is not made or is not made within a time referred to in subsection (4), a board shall be deemed to be properly constituted notwithstanding any defect in a determination or distribution.

### *Applications*

Application for determination or distribution

**206c.**—(1) An application may be made to a judge to make,

- (a) the determinations that are required to be made under subsections 206a (6) and (8) and the distribu-

tion that is required to be made under subsection 206a (12); or

- (b) the distribution that is required to be made under subsection 206a (12),

where the determinations and the distribution are not made or a distribution is not made.

(2) An application under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality. Idem

(3) An application shall be made within twenty days after the date prescribed by the regulations for a determination to be made. Time for application

(4) The judge shall make the determinations and distribution or the distribution, as the case requires, within thirty days after the application is commenced. Time for determination

(5) A determination or distribution made by a judge under subsection (4) is not subject to appeal and shall be deemed to be a determination or distribution made under section 206a. Determination or distribution final

- (6) Where, No determination or distribution
- (a) determinations and distributions are not made;
- (b) a distribution is not made; or
- (c) the judge does not deal with the application within the thirty day time period required,

the determinations and distribution or the distribution, as the case may be, at the last regular election under the *Municipal Elections Act* shall be deemed to be the determinations and distribution or the distribution for the purposes of the next regular election. R.S.O. 1980, c. 308

**25.** Section 277f of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

**26.—(1)** Subsection 277i (8) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “other members” in the sixth line and inserting in lieu thereof “members of the French-language section”.

(2) Subsection 277i (11) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

27.—(1) Subsection 277q (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(2) Subsection 277q (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(3) Subsection 277q (5) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(4) Clause 277q (6) (a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second and third lines and inserting in lieu thereof “subsection (1)”.

(5) Clause 277q (6) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(6) Clause 277q (6) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

(d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section.

(7) Subsection 277q (7) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(8) Clause 277q (9) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(9) Clause 277q (9) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

(d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section,

**28.—(1) Subsection 118 (2) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 18, section 10, is repealed.**

**(2) Subsection 118 (3) of the said Act is repealed.**

**(3) Subsection 118 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 2, is repealed.**

**(4) Subsections 120b (3), (5), (6), (7), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 13, are repealed and the following substituted therefor:**

**(3) The Council is a body corporate.**

Body  
corporate

**(5) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 11, 1986, chapter 21, section 6 and 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

**(2) On and after the 1st day of December, 1988, the School Board shall be composed of the chairman of, and other members appointed by, each board of education in Metropolitan Toronto in accordance with subsection (2a).**

Members of  
School Board

**(2a) The total number of members, including the chairman, representing each board of education shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:**

Numbers of  
members

TABLE

Column 1	Column 2
Total population of all electoral groups of the board of education	Total number of members
Less than 112,500 persons	1
112,500 or more, up to and including 187,499 persons	2
187,500 or more, up to and including 262,499 persons	3
262,500 or more, up to and including 337,499 persons	4

337,500 or more, up to and including 412,499 persons	5
412,500 or more persons	6

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**(6) Subsection 121 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Alternate members

(3) A board of education, for which only one member is also a member of the School Board, may appoint one of its members as an alternate member of the School Board and the alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which the alternate member belongs.

**(7) Subsection 121 (6) of the said Act is repealed.**

**(8) Subsection 122 (3) of the said Act is repealed and the following substituted therefor:**

Certificate of qualification

(3) A person who is entitled to be a member of the School Board under subsection 121 (2) or an alternate member of the School Board under subsection 121 (3) shall not take a seat on the School Board until the person has filed at the first meeting of the School Board a certificate under the hand of the secretary of the board of education and under the seal of such board certifying that the person is entitled to be a member or an alternate member, as the case may be.

**(9) Subsection 122 (5) of the said Act is amended by striking out "at least nine" in the second line and inserting in lieu thereof "a majority of the".**

**(10) Subsection 124 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 4, is repealed and the following substituted therefor:**

Quorum voting

(1) The number of members of the School Board necessary to form a quorum is the majority of the number of members of which the School Board is composed under subsection 121 (2) and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry the matter.

**(11) Subsection 124 (3) of the said Act is repealed.**

(12) Subsections 125 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 5, are repealed.

(13) Subsections 126 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(2) If a vacancy occurs in the office of an appointed member, the board of education of which the person was a member shall, within fifteen days after the vacancy occurs, appoint a successor from among its members to hold office for the remainder of the term of the person.

Other  
members

(3) The chairman of the School Board may resign the office as chairman without resigning from the board of education to which the chairman belongs.

Resignation  
of chairman

29. Section 151 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed.

30. Section 145 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed.

31. Section 158 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed.

32.—(1) Subsection 153 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “composed of seventeen members” in the third line.

(2) Subsection 153 (3) of the said Act is repealed.

(3) Subsections 153 (3a), (3b), (3c) and (3d) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 21, are repealed.

(4) Subsections 153 (4) and (5) of the said Act are repealed.

(5) Subsection 154 (4) of the said Act is repealed.

(6) Section 155 of the said Act is amended by inserting after “Part III” in the first line “and Part VII-A”.

33. Section 140 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

**34.** Section 123 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

**35.** Section 173 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed.

**36.** Section 137 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is repealed.

**37.—(1)** Subsection 2 (3) of *The Metropolitan Separate School Board Act, 1953*, being chapter 119, is repealed and the following substituted therefor:

Composition  
of board

R.S.O. 1980,  
c. 129

(3) The Metropolitan Board shall consist of such number of members as is determined in accordance with Part VII-A of the *Education Act*.

(2) Section 4 of the said Act is repealed and the following substituted therefor:

Oath

R.S.O. 1980,  
c. 308

**4.** Notwithstanding the *Municipal Elections Act*, the oath to be taken by a voter shall be as set out in Schedule B.

(3) Clauses 13 (b), (c) and (d) of the said Act are repealed.

(4) Section 17 of the said Act is repealed and the following substituted therefor:

Metropolitan  
Board to be  
urban  
separate  
school board

**17.** Except as otherwise provided in this Act, the Metropolitan Board shall be an urban separate school board within the meaning of the *Education Act* and with respect to the district shall enjoy all the rights, powers and privileges of and be subject to all the obligations imposed upon an urban separate school board by that Act.

(5) Schedule A to the said Act is repealed.

**38.** Section 3 of *The City of Sault Ste. Marie Act, 1977*, being chapter 103, is repealed.

**39.** Clause 32 (d) of *The City of Timmins-Porcupine Act, 1972*, being chapter 117, is repealed.

Transition

R.S.O. 1980,  
c. 308

**40.—(1)** Notwithstanding that sections 1 to 39 do not come into force until the 1st day of December, 1988, the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted and the determinations and distributions in respect of those elections including appeals and applications



with respect thereto, shall be made as if sections 1 to 39 of this Act were in force.

(2) Notwithstanding that sections 1 to 39 do not come into force until the 1st day of December, 1988, where members of a board were elected in a municipality to represent areas established or continued under subsection 59 (23) or 113 (19) of the *Education Act* or under clause 32 (d) of *The City of Timmins-Porcupine Act, 1972* or to represent zones established by the Municipal Board under subsection 153 (3a) of the *Regional Municipality of Ottawa-Carleton Act* or to represent wards at the regular election held under the *Municipal Elections Act* in 1985, those areas, zones or wards or those areas, zones or wards as altered prior to the 2nd day of February, 1988, shall, unless dissolved, be deemed to be electoral areas established prior to that date under subsection 206a (22) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force.

Idem

R.S.O. 1980,  
c. 129  
1972, c. 117  
R.S.O. 1980,  
cc. 439, 308

(3) Notwithstanding subsection (2), for purposes of the election of members of the Metropolitan Separate School Board or of a board of education in Metropolitan Toronto, the local wards established by the Lieutenant Governor in Council for the regular elections to be held in 1988 in an area municipality within the meaning of the *Municipality of Metropolitan Toronto Act* shall be deemed to be electoral areas established, prior to the 2nd day of February, 1988, by the council of the area municipality at the request of the Metropolitan Separate School Board or of the board of education, as the case may be, under subsection 206a (22) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force.

Idem

R.S.O. 1980,  
c. 314

(4) The Minister may by order increase or decrease the total number of members to be elected to the Metropolitan Toronto French-language School Council by one or two members for the purposes of the regular elections to be held in 1988 under the *Municipal Elections Act*

Idem

**41.**—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Commence-  
ment

(2) Sections 1 to 39 come into force on the 1st of December, 1988.

Idem

**42.** The short title of this Act is the *Education Statute Law Amendment Act, 1988*.

Short title







# Bill 125

## **An Act to amend the Education Act and certain other Acts related to Education**

The Hon. C. Ward  
*Minister of Education*

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*1st Reading*      April 26th, 1988  
*2nd Reading*     May 16th, 1988  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the Social Development Committee)*

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## EXPLANATORY NOTES

The purpose of the Bill is to change the basis of trustee distribution from property assessment to representation by population.

The principal sections of the Act that deal with trustee representation are repealed and a new Part VII-A is enacted so as to bring all the sections together in one place.

Amendments are also made to certain Acts that establish the various regional municipalities and to the *County of Oxford Act* to ensure that the Acts are consistent with the new Part.

The amendments to the *Municipality of Metropolitan Toronto Act* provide for representation based on population and remove references to members elected by separate school electors.

Some features of the new Part are as follows:

1. The total size of a board is based on the sum of the populations of electoral groups (i.e. electors, supporters and their dependants) to be represented on the board. This total population then determines in a uniform manner the number of members that will comprise the board.
2. Two schedules are established that determine board size. One schedule applies to all single-tier boards, the other applies to boards within a two-tier governance structure.
3. The number of members that will comprise the board is distributed among the electoral groups of the board based on the proportion that each group's population is of the total population of all electoral groups of the board.
4. The Bill preserves the minimum guaranteed representation of three members for minority language sections already in the Act.
5. The minimum number of members on a board will be eight members and the maximum twenty-five.
6. The new provisions will apply to all boards of education, urban separate school boards and county and district combined separate school boards.

**Bill 125**

**1988**

**An Act to amend the Education Act and  
certain other Acts related to Education**

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

**1. Paragraph 37 of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

37. "population" means the population as determined by the latest enumeration taken under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,  
c. 31

**2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:**

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

- (a) prescribing the persons who shall make the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11) and an alternative distribution that is required to be made under subsection 206a (17) and the manner in which and the time by which they shall be made;
- (b) governing the distribution of information that relates to the determinations that are required to be made under subsections 206a (5) and (7) and distributions that are required to be made under subsection 206a (11) and an alternative distribution that is required to be made under subsection 206a (17) and information that relates to appeals and applications with respect to such determinations and distributions;

- (c) governing the nomination procedures for the election of members to boards from areas, including electoral areas established under subsections 277i (3) and (4), that are composed of all or part of two or more municipalities;
- (d) prescribing the duties to be performed by the clerks of the municipalities referred to in clause (c) and by the secretaries of boards in respect of nominations and elections.

Consistency  
with  
*Municipal  
Elections Act*  
R.S.O. 1980,  
c. 308

(11) A regulation made under clause (10) (c) or (d) shall not be inconsistent with the *Municipal Elections Act* except to the extent necessary to ensure that the nominations and the election referred to in those clauses are carried out in an efficient and orderly manner.

**3.** Subsection 53 (4) of the said Act is amended by striking out “pursuant to subsection 59 (9)” in the fifth line and inserting in lieu thereof “under subsection 206a (11) or (17)”.

**4.** Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following clause:

- (f) provide for the continuation of representation when a municipality is detached from one school division and added to another.

**5.—(1)** Subsection 55 (1) of the said Act is amended by striking out “sections 52 to 59” in the third and fourth lines and inserting in lieu thereof “sections 52 to 56, section 136i, and Parts VII-A and XI-A”.

(2) Subsection 55 (4) of the said Act is amended by inserting after “board” in the first line “other than a member of a French-language or English-language section”.

**6.** Subsections 56 (4), (5), (6), (7) and (8) of the said Act are repealed.

**7.** Sections 57 and 58 of the said Act are repealed.

**8.** Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16 and 1984, chapter 60, section 6, is repealed.

**9.** Section 61 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 17, is repealed.



**10.** Subsection 83 (6) of the said Act is repealed.

**11.** Subsection 88 (3) of the said Act is amended by striking out "section 90 or 100" in the eighth line and inserting in lieu thereof "section 100 or subsection 206a (6)".

**12.** Subsection 90 (1), as amended by the Statutes of Ontario, 1982, chapter 32, section 27, and subsections 90 (2) and (3) of the said Act are repealed.

**13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 28, is repealed.

**14.** Section 92 of the said Act is repealed.

**15.—(1)** Subsection 103 (4) of the said Act is amended by striking out "section 90" in the fifth line and inserting in lieu thereof "subsection 206a (6)".

**(2)** Subsection 103 (7) of the said Act is amended by striking out "subsection 113 (21)" in the fifth line and inserting in lieu thereof "subsection 206a (11) or (17)".

**16.—(1)** Subsection 105 (2) of the said Act is amended by adding thereto the following clause:

- (d) provide for the continuation of representation when a municipality is detached from one combined school zone and added to another.

**(2)** Subsection 105 (4) of the said Act is amended by striking out "sections 113 to 115" in the last line and inserting in lieu thereof "sections 115 and 206a".

**17.** Subsection 106 (2) of the said Act is repealed.

**18.** Subsections 110 (4), (5), (6), (7) and (8) of the said Act are repealed.

**19.** Subsection 112 (3) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 18, is repealed.

**20.** Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37 and 1984, chapter 60, section 7, is repealed.

**21.** Subsection 115 (1) of the said Act is amended by inserting after "sections 105 to 118" in the third line "and section 206a".

**22.**—(1) Subsection 116 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

(2) Subsection 116 (2) of the said Act is amended by striking out “and shall consist of sixteen trustees” in the third and fourth lines.

(3) Subsections 116 (3), (4), (5) and (6) of the said Act are repealed.

**23.** Subsection 144 (2) of the said Act is amended by inserting after “Part IV” in the sixth line “and Part VII-A”.

**24.** The said Act is amended by adding thereto the following Part:

## PART VII-A

### TRUSTEE REPRESENTATION

#### *Public and Separate School Boards*

#### Definitions

**206a.**—(1) In this Part,

“board” means a board of education, an urban separate school board, a district combined separate school board or a county combined separate school board;

“coterminous Roman Catholic separate school board” means a Roman Catholic separate school board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a public board;

“electoral group” of a board means a category of persons that reside within the area of jurisdiction of the board;

“public school electoral group” means, with respect to a board, the electoral group that comprises exclusively persons who are public school supporters or public school electors and includes the dependants of the public school supporters and public school electors of the board;

“public school English-language electoral group” means the part of the public school electoral group that comprises exclusively persons who are not members of the public school French-language electoral group;

“public school French-language electoral group” means the part of the public school electoral group that comprises

exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms* to have their children receive their primary and secondary school instruction in the French language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“public school supporter” means a ratepayer who is not a separate school supporter;

“separate school electoral group” means, with respect to a board, the electoral group that comprises exclusively persons who are separate school supporters or separate school electors and includes the dependants of the separate school supporters and separate school electors of the board;

“separate school English-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who are not members of the separate school French-language electoral group;

“separate school French-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms*, to have their children receive their primary and secondary school instruction in the French-language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“total English-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school English-language electoral group and the separate school English-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school English-language electoral group,
- (c) for a separate school board, the separate school English-language electoral group;

“total French-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school French-language electoral group and the separate school French-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school French-language electoral group,
- (c) for a separate school board, the separate school French-language electoral group.

Elections

➤ (2) The election of members of a board shall be conducted by the same officers and in the same manner as the election of members of the council of a municipality.

Change of boundaries

(3) The boundaries of the area of jurisdiction of a board or of a municipality that are to be altered as a result of,

- (a) a regulation made under subsection 54 (1) or 105 (2);
- (b) the establishment of a separate school zone under section 107;
- (c) an order of the Ontario Municipal Board;
- (d) an order of the Lieutenant Governor in Council under the *Municipal Boundary Negotiations Act, 1981*; or
- (e) any other Act,

1981, c. 70

R.S.O. 1980  
c. 308

on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so altered.

New city

(4) A new city that is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so erected.

Number of  
members on  
a board

(5) Subject to the increased number of members that may result from the application of rules 11, 12 and 13 of subsection (8) and the additional person that may be appointed by the board under section 165 to represent the interests of Indian pupils, the number of members on a board shall be deter-

mined in accordance with subsection (6) by the person prescribed by the regulations.

(6) A determination of the number of members on a board shall be made using the following rules, that shall be applied in order beginning with rule 1:

Rules for  
determination

1. For a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. The total population of all electoral groups of the board shall be equal to the sum of the populations of the public school electoral group and the separate school electoral group.
4. Subject to rule 6, the total number of members of a divisional board, an urban separate school board, a district combined separate school board or a county combined separate school board shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 5,000 persons	8
5,000 or more, up to and including 8,999 persons	10
9,000 or more, up to and including 14,999 persons	12
15,000 or more, up to and including 49,999 persons	14
50,000 or more, up to and including 115,999 persons	15
116,000 or more, up to and including 182,999 persons	17

183,000 or more, up to and including 282,999 persons	18
283,000 or more, up to and including 382,999 persons	19
383,000 or more, up to and including 482,999 persons	20
483,000 or more persons	21

5. Subject to rule 6, the total number of members on a board of education that is not a divisional board shall be the number of members as set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 140,000 persons	8
140,000 or more, up to and including 234,999 persons	10
235,000 or more, up to and including 329,999 persons	13
330,000 or more, up to and including 424,999 persons	16
425,000 or more persons	19

6. Where a board approves, by a resolution passed by an affirmative vote of three-quarters of the members of the board in the year immediately preceding the year of a regular election under the *Municipal Elections Act* or before the 10th day of August, 1988, an increase or decrease of either one or two in the number of members of the board, the number of members of the board shall be deemed to be so increased or decreased for the next two subsequent regular elections.

R.S.O. 1980,  
c. 308

Number of  
members for  
each electoral  
group of a  
board

(7) The number of members to be elected at each regular election under the *Municipal Elections Act* by the electors for each of the electoral groups of a board shall be determined in accordance with subsection (8) by the person prescribed by the regulations.

(8) A determination referred to in subsection (7) shall be made using the following rules, that shall apply in order starting with rule 1:

Rules for  
determination

1. For a public board, where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. If the board is not required to establish either a French-language or English-language section under Part XI-A then,
  - i. the population of the public school French-language electoral group shall be added to the population of the public school English-language electoral group and this total population shall be deemed to be the population of the public school English-language electoral group for the purposes of the subsequent rules in this subsection,
  - ii. the population of the separate school French-language electoral group shall be added to the population of the separate school English-language electoral group and this total population shall be deemed to be the population of the separate school English-language group for the purposes of the subsequent rules in this subsection, and
  - iii. the population of the total French-language electoral group shall be deemed to be zero.
4. If the board is required to establish an English-language section under Part XI-A, a reference in rule 5, 6 or 7 to English-language shall be deemed to be a reference to French-language and a reference to French-language shall be deemed to be a reference to English-language.
5. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
8. Where the sum of the number of members obtained using rules 5, 6 and 7 is less than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next lower integer by the greatest amount shall be increased by one.
9. Where the sum of the number of members obtained using rules 5, 6 and 7 is greater than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next higher integer by the greatest amount shall be decreased by one.
10. Where rule 8 or 9 is applied but cannot operate because the numbers of members calculated under subsection (9) for two or more electoral groups differ from the applicable integers by the same amount, the electoral group that shall have its number of members increased or decreased by one member shall be the largest electoral group.
11. Where the number of members calculated under rule 5 is less than three but greater than zero, then the number of members shall be deemed to be three.
12. Where the number of members calculated under rule 6 is less than three but greater than zero, then the number of members shall be deemed to be three.
13. Where the number of members calculated under rule 7 is less than one but greater than zero, then the number of members shall be deemed to be one.



(9) For the purposes of rules 5, 6 and 7 of subsection (8), the number of members shall be calculated using the following formula:

Calculation of number of members for purposes of rules 5, 6 and 7

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the population of the electoral group to which the rule applies

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6).

(10) For the purposes of rules 5, 6 and 7 of subsection (8) and rule 2 of subsection (18), the calculation shall be correct to the nearest integer with the fraction one-half being raised to the next higher integer. Idem

(11) After the determinations required under this section are made, a distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (12) by the person prescribed by the regulations to, Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(12) A distribution shall be made separately for each electoral group for which a distribution is not otherwise provided under section 277i or subsection 277t (1) according to the following rules that shall be applied in order beginning with rule 1: Rules for distribution

1. Calculate the electoral quotient for each municipality and electoral area using the following formula:

$$\text{electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the total number of members that represents the electors of the electoral group calculated by the rules in subsection (8)

c = the total population of the electoral group.

2. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its electoral quotient.
3. Two or more adjoining municipalities or two or more adjoining electoral areas within a municipality may be combined so that the sum of the electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
4. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas within a municipality shall be as nearly as practicable, the sum of the electoral quotients of the municipalities or electoral areas so combined.

Designation  
by board

(13) A board may by a resolution passed by an affirmative vote of three-quarters of the members of the board designate one or more municipalities wholly or partly within the area of jurisdiction of the board as a low population municipality or municipalities.

Resolution  
by members  
representing  
electoral  
group

(14) Where a board has made a designation under subsection (13), the members of the board who represent an electoral group may direct, by a resolution passed by an affirmative vote of three-quarters of those members, that,

- (a) an alternative distribution of members representing that electoral group be made to the municipality or municipalities designated by the board under subsection (13); and
- (b) the sum of the electoral quotients for the municipality or municipalities be increased by one or by two.

Effect of  
resolution  
R.S.O. 1980,  
c. 308

(15) A resolution passed under subsection (13) or (14) shall be passed in the year of a regular election under the *Municipal Elections Act* and shall be effective only for the purposes of the regular election to be held in that year.

(16) A resolution under subsection (13) or (14) has no effect unless it is made not later than five days after the date on which a distribution under subsection (11) is required to be made. Idem

(17) Pursuant to a resolution passed by the members of an electoral group of a board under subsection (14), an alternative distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (18) by the person prescribed by the regulations to, Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(18) An alternative distribution for an electoral group shall be made according to the following rules that shall be applied in order beginning with rule 1: Rules for distribution

1. Place the municipalities in two groups, one of which shall be comprised of the municipality or municipalities designated under subsection (13) and one of which shall be comprised of the remaining municipalities.
2. Calculate the sum of the electoral quotients, determined under subsection (12), for each group of municipalities.
3. For the group of municipalities that is designated under subsection (13), add to the sum of the electoral quotients the number one or two as determined by resolution of the electoral group passed under subsection (14).
4. For the group of the remaining municipalities, subtract from the sum of the electoral quotients one or two, as the case may be.
5. Calculate the alternative electoral quotient for each municipality and electoral area using the following formula:

$$\text{alternative electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the number calculated by rule 3 or 4, as the case requires

c = the total population of the electoral group resident in the group of municipalities to which the municipality or electoral area belongs.

6. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its alternative electoral quotient.
7. Two or more adjoining municipalities that were placed under rule 1 in the same group or two or more adjoining electoral areas within a municipality may be combined so that the sum of the alternative electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
8. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas shall be, as nearly as practicable, the sum of the alternative electoral quotients of the municipalities or electoral areas so combined.

Effect of  
alternative  
distribution

(19) An alternative distribution of those members that represent the electors of an electoral group that is made under subsection (17) shall, in lieu of the distribution that is required to be made under subsection (11), be the distribution for those members at the next regular election under the *Municipal Elections Act* and for the purposes of sections 206b and 206c shall be deemed to be a distribution made under subsection 206a (11).

R.S.O. 1980,  
c. 308

Election by  
general vote

(20) The members representing an electoral group for a municipality shall be elected by general vote of the electors eligible to vote in the municipality for those members.

Electoral  
areas in a  
municipality

(21) Notwithstanding subsection (20), where the number of members representing an electoral group to be elected under that subsection may be two or more, the council of the municipality may, where so requested by the board, by by-law divide the municipality into two or more electoral areas for

the purposes of an election under the *Municipal Elections Act* and a member representing an electoral group for an electoral area shall be elected by general vote of the electors eligible to vote in the electoral area for that member. R.S.O. 1980,  
c. 308

(22) A by-law referred to in subsection (21) and a by-law repealing any such by-law shall not be passed later than the 1st day of February in the year of a regular election under the *Municipal Elections Act* and shall take effect for the purpose of the regular election next following the passing of the by-law and remain in force until repealed. Time for  
passing by-  
law

(23) Notwithstanding section 277i, where a municipality is divided into wards, an electoral area may include one or more wards but each ward shall be located entirely within the electoral area. Wards in  
electoral  
areas

(24) Where two or more municipalities or electoral areas are combined for the election of one or more members who represent an electoral group, the member or members shall be elected by a general vote of the electors eligible to vote in the combined municipalities or combined electoral areas, as the case may be, for those members. Election in  
combined  
municipalities

### *Appeal*

**206b.**—(1) After the determinations are made as required under subsections 206a (5) and (7) and the distribution is made as required under subsection 206a (11) with respect to a board, the determinations and the distribution or the distribution may be appealed to a judge. Appeal

(2) An appeal under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality. Idem

(3) An appeal on a distribution only may be made only where the distribution allots to a municipality or to a combination of municipalities a number of members to be elected by the electors of an electoral group that is different from the electoral quotient of the municipality or the sum of the electoral quotients for the combined municipalities by an amount that is greater than 0.05 times the total number of members to be elected by the electoral group. Appeal on  
distribution

(4) An appeal shall be made within twenty days after the date prescribed by the regulations for a determination to be made. Time for  
appeal

Time for  
decision

(5) The judge shall make a decision with respect to an appeal within thirty days after the appeal is commenced.

Decision of  
judge on  
appeal

(6) The judge on an appeal under this section may,

- (a) vary a determination or distribution that is the subject of the appeal; or
- (b) confirm that a determination or distribution that is the subject of the appeal was made in accordance with section 206a.

Idem

(7) The decision of a judge on an appeal under this section is final and the appropriate person prescribed by the regulations to make the determination or distribution shall forthwith make such changes as the judge requires.

Where no  
appeal

(8) Where an appeal is not made or is not made within a time referred to in subsection (4), a board shall be deemed to be properly constituted notwithstanding any defect in a determination or distribution.

### *Applications*

Application  
for determi-  
nation or  
distribution

**206c.**—(1) An application may be made to a judge to make,

- (a) the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11); or
- (b) the distribution that is required to be made under subsection 206a (11),

where the determinations and the distribution are not made or a distribution is not made.

Idem

(2) An application under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Time for  
application

(3) An application shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for  
determination

(4) The judge shall make the determinations and distribution or the distribution, as the case requires, within thirty days after the application is commenced.

(5) A determination or distribution made by a judge under subsection (4) is not subject to appeal and shall be deemed to be a determination or distribution made under section 206a.

Determi-  
nation or  
distribution  
final

(6) Where,

No determi-  
nation or  
distribution

(a) determinations and distributions are not made;

(b) a distribution is not made; or

(c) the judge does not deal with the application within the thirty day time period required,

the determinations and distribution or the distribution, as the case may be, at the last regular election under the *Municipal Elections Act* shall be deemed to be the determinations and distribution or the distribution for the purposes of the next regular election.

R.S.O. 1980,  
c. 308

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

**206d.**—(1) Upon the application of a board authorized by a resolution thereof, or upon the application of petitioners in accordance with subsection (4), the Ontario Municipal Board may, by order,

Electoral  
areas

(a) divide or redivide a municipality within the area by jurisdiction of a school board into electoral areas and shall designate the name or number each electoral area shall bear and shall declare the date the division or redivision shall take effect;

(b) alter or dissolve any or all of the electoral areas created by an order under clause (a) and shall declare the date when such alterations or dissolutions shall take effect; and

(c) notwithstanding the *Municipal Elections Act* or section 206a or the regulations, make such provisions as are considered necessary for the holding of elections of members to the board by electors in electoral areas created or altered under this subsection.

R.S.O. 1980,  
c. 308

(2) Notwithstanding clause (1) (a) or (b), the Ontario Municipal Board may not create an electoral area under those clauses that contains part only of a ward.

Limitation

(3) While a provision of an order of the Ontario Municipal Board authorized by subsection (1) is in effect for the pur-

Election

poses of an election, the members of the board to be elected at the election by electors shall be elected in accordance with the provision of the order and not in accordance with subsection 206a (21).

Petition

(4) A petition of 150 or more persons who are qualified to elect members to the board may be presented to a school board requesting the board to apply to the Ontario Municipal Board to divide or redivide a municipality within the area of jurisdiction of the board into electoral areas or to alter or dissolve any or all of the existing electoral areas created by order of the Ontario Municipal Board, and if the board refuses or neglects to make the application within one month after receipt by the board of the petition, the petitioners or any of them may apply to the Ontario Municipal Board for the division, redivision, alteration or dissolution, as the case may be.

Electoral area

(5) An electoral area established by the Ontario Municipal Board under this section shall be deemed to be an electoral area referred to in subsection 206a (21).

**26.** Section 277f of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

**27.**—(1) Subsection 277i (8) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “other members” in the sixth line and inserting in lieu thereof “members of the French-language section”.

(2) Subsection 277i (11) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

**28.**—(1) Subsection 277q (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(2) Subsection 277q (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(3) Subsection 277q (5) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(4) Clause 277q (6) (a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended



by striking out “subsections (1) and (2)” in the second and third lines and inserting in lieu thereof “subsection (1)”.

(5) Clause 277q (6) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(6) Clause 277q (6) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

(d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section.

(7) Subsection 277q (7) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(8) Clause 277q (9) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(9) Clause 277q (9) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

(d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section,

. . . . .

**29.**—(1) Subsection 118 (2) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 18, section 10, is repealed.

(2) Subsection 118 (3) of the said Act is repealed.

(3) Subsection 118 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 2, is repealed.

(4) Subsections 120b (3), (5), (6), (7), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 13, are repealed and the following substituted therefor:

(3) The Council is a body corporate.

Body  
corporate

**(5) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 11, 1986, chapter 21, section 6 and 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Members of  
School Board

(2) On and after the 1st day of December, 1988, the School Board shall be composed of the chairman of, and other members appointed by, each board of education in Metropolitan Toronto in accordance with subsection (2a).

Numbers of  
members

(2a) The total number of members, including the chairman, representing each board of education shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board of education	Total number of members
Less than 112,500 persons	1
112,500 or more, up to and including 187,499 persons	2
187,500 or more, up to and including 262,499 persons	3
262,500 or more, up to and including 337,499 persons	4
337,500 or more, up to and including 412,499 persons	5
412,500 or more persons	6

**(6) Subsection 121 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Alternate  
members

(3) A board of education, for which only one member is also a member of the School Board, may appoint one of its members as an alternate member of the School Board and the alternate member may attend the meetings of the School Board and of its committees, but shall not vote in meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which the alternate member belongs.

**(7) Subsection 121 (6) of the said Act is repealed.**

**(8) Subsection 122 (3) of the said Act is repealed and the following substituted therefor:**

(3) A person who is entitled to be a member of the School Board under subsection 121 (2) or an alternate member of the School Board under subsection 121 (3) shall not take a seat on the School Board until the person has filed at the first meeting of the School Board a certificate under the hand of the secretary of the board of education and under the seal of such board certifying that the person is entitled to be a member or an alternate member, as the case may be.

Certificate of qualification

**(9) Subsection 122 (5) of the said Act is amended by striking out "at least nine" in the second line and inserting in lieu thereof "a majority of the".**

**(10) Subsection 124 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 4, is repealed and the following substituted therefor:**

(1) The number of members of the School Board necessary to form a quorum is the majority of the number of members of which the School Board is composed under subsection 121 (2) and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry the matter.

Quorum voting

**(11) Subsection 124 (3) of the said Act is repealed.**

**(12) Subsections 125 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 5, are repealed.**

**(13) Subsections 126 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:**

(2) If a vacancy occurs in the office of an appointed member, the board of education of which the person was a member shall, within fifteen days after the vacancy occurs, appoint a successor from among its members to hold office for the remainder of the term of the person.

Other members

(3) The chairman of the School Board may resign the office as chairman without resigning from the board of education to which the chairman belongs.

Resignation of chairman

**30. Section 151 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed.**

**31.** Section 145 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed.

**32.** Section 158 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed.

**33.**—(1) Subsection 153 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “composed of seventeen members” in the third line.

(2) Subsection 153 (3) of the said Act is repealed.

(3) Subsections 153 (3a), (3b), (3c) and (3d) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 21, are repealed.

(4) Subsections 153 (4) and (5) of the said Act are repealed.

(5) Subsection 154 (4) of the said Act is repealed.

(6) Section 155 of the said Act is amended by inserting after “Part III” in the first line “and Part VII-A”.

**34.** Section 140 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

**35.** Section 123 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

**36.** Section 173 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed.

**37.** Section 137 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is repealed.

**38.**—(1) Subsection 2 (3) of *The Metropolitan Separate School Board Act, 1953*, being chapter 119, is repealed and the following substituted therefor:

(3) The Metropolitan Board shall consist of such number of members as is determined in accordance with Part VII-A of the *Education Act*.

Composition  
of board

R.S.O. 1980,  
c. 129

(2) Section 4 of the said Act is repealed and the following substituted therefor:

4. Notwithstanding the *Municipal Elections Act*, the oath to be taken by a voter shall be as set out in Schedule B.

Oath  
R.S.O. 1980,  
c. 308

(3) Clauses 13 (b), (c) and (d) of the said Act are repealed.

(4) Section 17 of the said Act is repealed and the following substituted therefor:

17. Except as otherwise provided in this Act, the Metropolitan Board shall be an urban separate school board within the meaning of the *Education Act* and with respect to the district shall enjoy all the rights, powers and privileges of and be subject to all the obligations imposed upon an urban separate school board by that Act.

Metropolitan  
Board to be  
urban  
separate  
school board  
R.S.O. 1980,  
c. 129

(5) Schedule A to the said Act is repealed.

**39.** Section 3 of *The City of Sault Ste. Marie Act, 1977*, being chapter 103, is repealed.

**40.** Clause 32 (d) of *The City of Timmins-Porcupine Act, 1972*, being chapter 117, is repealed.

**41.—(1)** Notwithstanding that sections 1 to 40 do not come into force until the 1st day of December, 1988, the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted and the determinations and distributions in respect of those elections, including appeals and applications with respect thereto, shall be made as if sections 1 to 40, except section 25, of this Act were in force.

Transition

R.S.O. 1980,  
c. 308

(2) Notwithstanding that sections 1 to 40 do not come into force until the 1st day of December, 1988, where members of a board were elected in a municipality to represent areas established or continued under subsection 59 (23) or 113 (19) of the *Education Act* or under clause 32 (d) of *The City of Timmins-Porcupine Act, 1972* or to represent zones established by the Municipal Board under subsection 153 (3a) of the *Regional Municipality of Ottawa-Carleton Act* or to represent wards at the regular election held under the *Municipal Elections Act* in 1985, those areas, zones or wards or those areas, zones or wards as altered prior to the 2nd day of February, 1988, shall, unless dissolved, be deemed to be electoral areas established prior to that date under subsection 206a (21) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force.

Idem

R.S.O. 1980,  
c. 129  
1972, c. 117  
R.S.O. 1980,  
cc. 439, 308

Idem

(3) Notwithstanding subsection (2), for purposes of the election of members of the Metropolitan Separate School Board or of a board of education in Metropolitan Toronto, the local wards established by the Lieutenant Governor in Council for the regular elections to be held in 1988 in an area municipality within the meaning of the *Municipality of Metropolitan Toronto Act* shall be deemed to be electoral areas established, prior to the 2nd day of February, 1988, by the council of the area municipality at the request of the Metropolitan Separate School Board or of the board of education, as the case may be, under subsection 206a (21) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force.

R.S.O. 1980,  
c. 314

Idem

(4) The Minister may by order increase or decrease the total number of members to be elected to the Metropolitan Toronto French-language School Council by one or two members for the purposes of the regular elections to be held in 1988 under the *Municipal Elections Act*

Commence-  
ment

**42.**—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 40 come into force on the 1st day of December, 1988.

Short title

**43.** The short title of this Act is the *Education Statute Law Amendment Act, 1988*.







# Bill 125

## **An Act to amend the Education Act and certain other Acts related to Education**

The Hon. C. Ward  
*Minister of Education*

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*1st Reading*      April 26th, 1988  
*2nd Reading*     May 16th, 1988  
*3rd Reading*  
*Royal Assent*

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

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## EXPLANATORY NOTES

The purpose of the Bill is to change the basis of trustee distribution from property assessment to representation by population.

The principal sections of the Act that deal with trustee representation are repealed and a new Part VII-A is enacted so as to bring all the sections together in one place.

Amendments are also made to certain Acts that establish the various regional municipalities and to the *County of Oxford Act* to ensure that the Acts are consistent with the new Part.

The amendments to the *Municipality of Metropolitan Toronto Act* provide for representation based on population and remove references to members elected by separate school electors.

Some features of the new Part are as follows:

1. The total size of a board is based on the sum of the populations of electoral groups (i.e. electors, supporters and their dependants) to be represented on the board. This total population then determines in a uniform manner the number of members that will comprise the board.
2. Two schedules are established that determine board size. One schedule applies to all single-tier boards, the other applies to boards within a two-tier governance structure.
3. The number of members that will comprise the board is distributed among the electoral groups of the board based on the proportion that each group's population is of the total population of all electoral groups of the board.
4. The Bill preserves the minimum guaranteed representation of three members for minority language sections already in the Act.
5. The minimum number of members on a board will be eight members and the maximum twenty-five.
6. The new provisions will apply to all boards of education, urban separate school boards and county and district combined separate school boards.

**Bill 125**

**1988**

**An Act to amend the Education Act and certain other Acts related to Education**

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

**1. Paragraph 37 of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

37. "population" means the population as determined by the latest enumeration taken under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,  
c. 31

**2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:**

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

- (a) prescribing the persons who shall make the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11) and an alternative distribution that is required to be made under subsection 206a (17) and the manner in which and the time by which they shall be made;
- (b) governing the distribution of information that relates to the determinations that are required to be made under subsections 206a (5) and (7) and distributions that are required to be made under subsection 206a (11) and an alternative distribution that is required to be made under subsection 206a (17) and information that relates to appeals and applications with respect to such determinations and distributions;

- (c) governing the nomination procedures for the election of members to boards from areas, including electoral areas established under subsections 277i (3) and (4), that are composed of all or part of two or more municipalities;
- (d) prescribing the duties to be performed by the clerks of the municipalities referred to in clause (c) and by the secretaries of boards in respect of nominations and elections.

Consistency  
with  
*Municipal  
Elections Act*  
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(11) A regulation made under clause (10) (c) or (d) shall not be inconsistent with the *Municipal Elections Act* except to the extent necessary to ensure that the nominations and the election referred to in those clauses are carried out in an efficient and orderly manner.

**3.** Subsection 53 (4) of the said Act is amended by striking out “pursuant to subsection 59 (9)” in the fifth line and inserting in lieu thereof “under subsection 206a (11) or (17)”.

**4.** Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following clause:

- (f) provide for the continuation of representation when a municipality is detached from one school division and added to another.

**5.—(1)** Subsection 55 (1) of the said Act is amended by striking out “sections 52 to 59” in the third and fourth lines and inserting in lieu thereof “sections 52 to 56, section 136i, and Parts VII-A and XI-A”.

(2) Subsection 55 (4) of the said Act is amended by inserting after “board” in the first line “other than a member of a French-language or English-language section”.

**6.** Subsections 56 (4), (5), (6), (7) and (8) of the said Act are repealed.

**7.** Sections 57 and 58 of the said Act are repealed.

**8.** Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16 and 1984, chapter 60, section 6, is repealed.

**9.** Section 61 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 17, is repealed.

- 10.** Subsection 83 (6) of the said Act is repealed.
- 11.** Subsection 88 (3) of the said Act is amended by striking out "section 90 or 100" in the eighth line and inserting in lieu thereof "section 100 or subsection 206a (6)".
- 12.** Subsection 90 (1), as amended by the Statutes of Ontario, 1982, chapter 32, section 27, and subsections 90 (2) and (3) of the said Act are repealed.
- 13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 28, is repealed.
- 14.** Section 92 of the said Act is repealed.
- 15.—(1)** Subsection 103 (4) of the said Act is amended by striking out "section 90" in the fifth line and inserting in lieu thereof "subsection 206a (6)".
- (2)** Subsection 103 (7) of the said Act is amended by striking out "subsection 113 (21)" in the fifth line and inserting in lieu thereof "subsection 206a (11) or (17)".
- 16.—(1)** Subsection 105 (2) of the said Act is amended by adding thereto the following clause:
- (d)** provide for the continuation of representation when a municipality is detached from one combined school zone and added to another.
- (2)** Subsection 105 (4) of the said Act is amended by striking out "sections 113 to 115" in the last line and inserting in lieu thereof "sections 115 and 206a".
- 17.** Subsection 106 (2) of the said Act is repealed.
- 18.** Subsections 110 (4), (5), (6), (7) and (8) of the said Act are repealed.
- 19.** Subsection 112 (3) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 18, is repealed.
- 20.** Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37 and 1984, chapter 60, section 7, is repealed.
- 21.** Subsection 115 (1) of the said Act is amended by inserting after "sections 105 to 118" in the third line "and section 206a".

**22.—(1)** Subsection 116 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

(2) Subsection 116 (2) of the said Act is amended by striking out “and shall consist of sixteen trustees” in the third and fourth lines.

(3) Subsections 116 (3), (4), (5) and (6) of the said Act are repealed.

**23.** Subsection 144 (2) of the said Act is amended by inserting after “Part IV” in the sixth line “and Part VII-A”.

**24.** The said Act is amended by adding thereto the following Part:

## PART VII-A

### TRUSTEE REPRESENTATION

#### *Public and Separate School Boards*

#### Definitions

**206a.—(1)** In this Part,

“board” means a board of education, an urban separate school board, a district combined separate school board or a county combined separate school board;

“coterminous Roman Catholic separate school board” means a Roman Catholic separate school board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a public board;

“electoral group” of a board means a category of persons that reside within the area of jurisdiction of the board;

“public school electoral group” means, with respect to a board, the electoral group that comprises exclusively persons who are public school supporters or public school electors and includes the dependants of the public school supporters and public school electors of the board;

“public school English-language electoral group” means the part of the public school electoral group that comprises exclusively persons who are not members of the public school French-language electoral group;

“public school French-language electoral group” means the part of the public school electoral group that comprises

exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms* to have their children receive their primary and secondary school instruction in the French language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“public school supporter” means a ratepayer who is not a separate school supporter;

“separate school electoral group” means, with respect to a board, the electoral group that comprises exclusively persons who are separate school supporters or separate school electors and includes the dependants of the separate school supporters and separate school electors of the board;

“separate school English-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who are not members of the separate school French-language electoral group;

“separate school French-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms*, to have their children receive their primary and secondary school instruction in the French-language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“total English-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school English-language electoral group and the separate school English-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school English-language electoral group,
- (c) for a separate school board, the separate school English-language electoral group;

“total French-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school French-language electoral group and the separate school French-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school French-language electoral group,
- (c) for a separate school board, the separate school French-language electoral group.

Elections

(2) The election of members of a board shall be conducted by the same officers and in the same manner as the election of members of the council of a municipality.

Change of boundaries

(3) The boundaries of the area of jurisdiction of a board or of a municipality that are to be altered as a result of,

- (a) a regulation made under subsection 54 (1) or 105 (2);
- (b) the establishment of a separate school zone under section 107;
- (c) an order of the Ontario Municipal Board;
- (d) an order of the Lieutenant Governor in Council under the *Municipal Boundary Negotiations Act, 1981*; or
- (e) any other Act,

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c. 308

on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so altered.

New city

(4) A new city that is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so erected.

Number of members on a board

(5) Subject to the increased number of members that may result from the application of rules 11, 12 and 13 of subsection (8) and the additional person that may be appointed by the board under section 165 to represent the interests of Indian pupils, the number of members on a board shall be deter-



mined in accordance with subsection (6) by the person prescribed by the regulations.

(6) A determination of the number of members on a board shall be made using the following rules, that shall be applied in order beginning with rule 1: Rules for  
determination

1. For a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. The total population of all electoral groups of the board shall be equal to the sum of the populations of the public school electoral group and the separate school electoral group.
4. Subject to rule 6, the total number of members of a divisional board, an urban separate school board, a district combined separate school board or a county combined separate school board shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 5,000 persons	8
5,000 or more, up to and including 8,999 persons	10
9,000 or more, up to and including 14,999 persons	12
15,000 or more, up to and including 49,999 persons	14
50,000 or more, up to and including 115,999 persons	15
116,000 or more, up to and including 182,999 persons	17

183,000 or more, up to and including 282,999 persons	18
283,000 or more, up to and including 382,999 persons	19
383,000 or more, up to and including 482,999 persons	20
483,000 or more persons	21

5. Subject to rule 6, the total number of members on a board of education that is not a divisional board shall be the number of members as set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE	
Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 140,000 persons	8
140,000 or more, up to and including 234,999 persons	10
235,000 or more, up to and including 329,999 persons	13
330,000 or more, up to and including 424,999 persons	16
425,000 or more persons	19

6. Where a board approves, by a resolution passed by an affirmative vote of three-quarters of the members of the board in the year immediately preceding the year of a regular election under the *Municipal Elections Act* or before the 10th day of August, 1988, an increase or decrease of either one or two in the number of members of the board, the number of members of the board shall be deemed to be so increased or decreased for the next two subsequent regular elections.

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Number of  
members for  
each electoral  
group of a  
board

- (7) The number of members to be elected at each regular election under the *Municipal Elections Act* by the electors for each of the electoral groups of a board shall be determined in accordance with subsection (8) by the person prescribed by the regulations.

(8) A determination referred to in subsection (7) shall be made using the following rules, that shall apply in order starting with rule 1:

Rules for  
determination

1. For a public board, where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. If the board is not required to establish either a French-language or English-language section under Part XI-A then,
  - i. the population of the public school French-language electoral group shall be added to the population of the public school English-language electoral group and this total population shall be deemed to be the population of the public school English-language electoral group for the purposes of the subsequent rules in this subsection,
  - ii. the population of the separate school French-language electoral group shall be added to the population of the separate school English-language electoral group and this total population shall be deemed to be the population of the separate school English-language group for the purposes of the subsequent rules in this subsection, and
  - iii. the population of the total French-language electoral group shall be deemed to be zero.
4. If the board is required to establish an English-language section under Part XI-A, a reference in rule 5, 6 or 7 to English-language shall be deemed to be a reference to French-language and a reference to French-language shall be deemed to be a reference to English-language.
5. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
8. Where the sum of the number of members obtained using rules 5, 6 and 7 is less than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next lower integer by the greatest amount shall be increased by one.
9. Where the sum of the number of members obtained using rules 5, 6 and 7 is greater than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next higher integer by the greatest amount shall be decreased by one.
10. Where rule 8 or 9 is applied but cannot operate because the numbers of members calculated under subsection (9) for two or more electoral groups differ from the applicable integers by the same amount, the electoral group that shall have its number of members increased or decreased by one member shall be the largest electoral group.
11. Where the number of members calculated under rule 5 is less than three but greater than zero, then the number of members shall be deemed to be three.
12. Where the number of members calculated under rule 6 is less than three but greater than zero, then the number of members shall be deemed to be three.
13. Where the number of members calculated under rule 7 is less than one but greater than zero, then the number of members shall be deemed to be one.

(9) For the purposes of rules 5, 6 and 7 of subsection (8), the number of members shall be calculated using the following formula:

Calculation of number of members for purposes of rules 5, 6 and 7

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the population of the electoral group to which the rule applies

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6).

(10) For the purposes of rules 5, 6 and 7 of subsection (8) and rule 2 of subsection (18), the calculation shall be correct to the nearest integer with the fraction one-half being raised to the next higher integer.

Idem

(11) After the determinations required under this section are made, a distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (12) by the person prescribed by the regulations to,

Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(12) A distribution shall be made separately for each electoral group for which a distribution is not otherwise provided under section 277i or subsection 277t (1) according to the following rules that shall be applied in order beginning with rule 1:

Rules for distribution

1. Calculate the electoral quotient for each municipality and electoral area using the following formula:

$$\text{electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the total number of members that represents the electors of the electoral group calculated by the rules in subsection (8)

c = the total population of the electoral group.

2. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its electoral quotient.
3. Two or more adjoining municipalities or two or more adjoining electoral areas within a municipality may be combined so that the sum of the electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
4. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas within a municipality shall be as nearly as practicable, the sum of the electoral quotients of the municipalities or electoral areas so combined.

Designation  
by board

(13) A board may by a resolution passed by an affirmative vote of three-quarters of the members of the board designate one or more municipalities wholly or partly within the area of jurisdiction of the board as a low population municipality or municipalities.

Resolution  
by members  
representing  
electoral  
group

(14) Where a board has made a designation under subsection (13), the members of the board who represent an electoral group may direct, by a resolution passed by an affirmative vote of three-quarters of those members, that,

- (a) an alternative distribution of members representing that electoral group be made to the municipality or municipalities designated by the board under subsection (13); and
- (b) the sum of the electoral quotients for the municipality or municipalities be increased by one or by two.

Effect of  
resolution  
R.S.O. 1980,  
c. 308

(15) A resolution passed under subsection (13) or (14) shall be passed in the year of a regular election under the *Municipal Elections Act* and shall be effective only for the purposes of the regular election to be held in that year.

(16) A resolution under subsection (13) or (14) has no effect unless it is made not later than five days after the date on which a distribution under subsection (11) is required to be made. Idem

(17) Pursuant to a resolution passed by the members of an electoral group of a board under subsection (14), an alternative distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (18) by the person prescribed by the regulations to, Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(18) An alternative distribution for an electoral group shall be made according to the following rules that shall be applied in order beginning with rule 1: Rules for distribution

1. Place the municipalities in two groups, one of which shall be comprised of the municipality or municipalities designated under subsection (13) and one of which shall be comprised of the remaining municipalities.
2. Calculate the sum of the electoral quotients, determined under subsection (12), for each group of municipalities.
3. For the group of municipalities that is designated under subsection (13), add to the sum of the electoral quotients the number one or two as determined by resolution of the electoral group passed under subsection (14).
4. For the group of the remaining municipalities, subtract from the sum of the electoral quotients one or two, as the case may be.
5. Calculate the alternative electoral quotient for each municipality and electoral area using the following formula:

$$\text{alternative electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the number calculated by rule 3 or 4, as the case requires

c = the total population of the electoral group resident in the group of municipalities to which the municipality or electoral area belongs.

6. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its alternative electoral quotient.
7. Two or more adjoining municipalities that were placed under rule 1 in the same group or two or more adjoining electoral areas within a municipality may be combined so that the sum of the alternative electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
8. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas shall be, as nearly as practicable, the sum of the alternative electoral quotients of the municipalities or electoral areas so combined.

Effect of  
alternative  
distribution

(19) An alternative distribution of those members that represent the electors of an electoral group that is made under subsection (17) shall, in lieu of the distribution that is required to be made under subsection (11), be the distribution for those members at the next regular election under the *Municipal Elections Act* and for the purposes of sections 206b and 206c shall be deemed to be a distribution made under subsection 206a (11).

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Election by  
general vote

(20) The members representing an electoral group for a municipality shall be elected by general vote of the electors eligible to vote in the municipality for those members.

Electoral  
areas in a  
municipality

(21) Notwithstanding subsection (20), where the number of members representing an electoral group to be elected under that subsection may be two or more, the council of the municipality may, where so requested by the board, by by-law divide the municipality into two or more electoral areas for



the purposes of an election under the *Municipal Elections Act* and a member representing an electoral group for an electoral area shall be elected by general vote of the electors eligible to vote in the electoral area for that member.

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c. 308

(22) A by-law referred to in subsection (21) and a by-law repealing any such by-law shall not be passed later than the 1st day of February in the year of a regular election under the *Municipal Elections Act* and shall take effect for the purpose of the regular election next following the passing of the by-law and remain in force until repealed.

Time for  
passing by-  
law

(23) Notwithstanding section 277i, where a municipality is divided into wards, an electoral area may include one or more wards but each ward shall be located entirely within the electoral area.

Wards in  
electoral  
areas

(24) Where two or more municipalities or electoral areas are combined for the election of one or more members who represent an electoral group, the member or members shall be elected by a general vote of the electors eligible to vote in the combined municipalities or combined electoral areas, as the case may be, for those members.

Election in  
combined  
municipalities

### *Appeal*

**206b.**—(1) After the determinations are made as required under subsections 206a (5) and (7) and the distribution is made as required under subsection 206a (11) with respect to a board, the determinations and the distribution or the distribution may be appealed to a judge.

Appeal

(2) An appeal under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Idem

(3) An appeal on a distribution only may be made only where the distribution allots to a municipality or to a combination of municipalities a number of members to be elected by the electors of an electoral group that is different from the electoral quotient of the municipality or the sum of the electoral quotients for the combined municipalities by an amount that is greater than 0.05 times the total number of members to be elected by the electoral group.

Appeal on  
distribution

(4) An appeal shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for  
appeal

Time for  
decision

(5) The judge shall make a decision with respect to an appeal within thirty days after the appeal is commenced.

Decision of  
judge on  
appeal

(6) The judge on an appeal under this section may,

- (a) vary a determination or distribution that is the subject of the appeal; or
- (b) confirm that a determination or distribution that is the subject of the appeal was made in accordance with section 206a.

Idem

(7) The decision of a judge on an appeal under this section is final and the appropriate person prescribed by the regulations to make the determination or distribution shall forthwith make such changes as the judge requires.

Where no  
appeal

(8) Where an appeal is not made or is not made within a time referred to in subsection (4), a board shall be deemed to be properly constituted notwithstanding any defect in a determination or distribution.

### *Applications*

Application  
for determi-  
nation or  
distribution

**206c.**—(1) An application may be made to a judge to make,

- (a) the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11); or
- (b) the distribution that is required to be made under subsection 206a (11),

where the determinations and the distribution are not made or a distribution is not made.

Idem

(2) An application under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Time for  
application

(3) An application shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for  
determination

(4) The judge shall make the determinations and distribution or the distribution, as the case requires, within thirty days after the application is commenced.

(5) A determination or distribution made by a judge under subsection (4) is not subject to appeal and shall be deemed to be a determination or distribution made under section 206a. Determination or distribution final

(6) Where,

No determination or distribution

(a) determinations and distributions are not made;

(b) a distribution is not made; or

(c) the judge does not deal with the application within the thirty day time period required,

the determinations and distribution or the distribution, as the case may be, at the last regular election under the *Municipal Elections Act* shall be deemed to be the determinations and distribution or the distribution for the purposes of the next regular election.

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**25. The said Act is further amended by adding thereto the following section:**

**206d.**—(1) Upon the application of a board authorized by a resolution thereof, or upon the application of petitioners in accordance with subsection (4), the Ontario Municipal Board may, by order,

Electoral areas

(a) divide or redivide a municipality within the area by jurisdiction of a school board into electoral areas and shall designate the name or number each electoral area shall bear and shall declare the date the division or redivision shall take effect;

(b) alter or dissolve any or all of the electoral areas created by an order under clause (a) and shall declare the date when such alterations or dissolutions shall take effect; and

(c) notwithstanding the *Municipal Elections Act* or section 206a or the regulations, make such provisions as are considered necessary for the holding of elections of members to the board by electors in electoral areas created or altered under this subsection.

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(2) Notwithstanding clause (1) (a) or (b), the Ontario Municipal Board may not create an electoral area under those clauses that contains part only of a ward.

Limitation

(3) While a provision of an order of the Ontario Municipal Board authorized by subsection (1) is in effect for the pur-

Election

poses of an election, the members of the board to be elected at the election by electors shall be elected in accordance with the provision of the order and not in accordance with subsection 206a (21).

Petition

(4) A petition of 150 or more persons who are qualified to elect members to the board may be presented to a school board requesting the board to apply to the Ontario Municipal Board to divide or redivide a municipality within the area of jurisdiction of the board into electoral areas or to alter or dissolve any or all of the existing electoral areas created by order of the Ontario Municipal Board, and if the board refuses or neglects to make the application within one month after receipt by the board of the petition, the petitioners or any of them may apply to the Ontario Municipal Board for the division, redivision, alteration or dissolution, as the case may be.

Electoral  
area

(5) An electoral area established by the Ontario Municipal Board under this section shall be deemed to be an electoral area referred to in subsection 206a (21).

**26. Section 277f of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.**

**27.—(1) Subsection 277i (8) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “other members” in the sixth line and inserting in lieu thereof “members of the French-language section”.**

**(2) Subsection 277i (11) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.**

**28.—(1) Subsection 277q (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.**

**(2) Subsection 277q (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.**

**(3) Subsection 277q (5) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.**

**(4) Clause 277q (6) (a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended**

by striking out “subsections (1) and (2)” in the second and third lines and inserting in lieu thereof “subsection (1)”.

(5) Clause 277q (6) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(6) Clause 277q (6) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

- (d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section.

(7) Subsection 277q (7) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(8) Clause 277q (9) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(9) Clause 277q (9) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

- (d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section,

. . . . .  
**29.—(1)** Subsection 118 (2) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 18, section 10, is repealed.

(2) Subsection 118 (3) of the said Act is repealed.

(3) Subsection 118 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 2, is repealed.

(4) Subsections 120b (3), (5), (6), (7), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 13, are repealed and the following substituted therefor:

(3) The Council is a body corporate.

Body  
corporate

**(5) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 11, 1986, chapter 21, section 6 and 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Members of  
School Board

(2) On and after the 1st day of December, 1988, the School Board shall be composed of the chairman of, and other members appointed by, each board of education in Metropolitan Toronto in accordance with subsection (2a).

Numbers of  
members

(2a) The total number of members, including the chairman, representing each board of education shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board of education	Total number of members
Less than 112,500 persons	1
112,500 or more, up to and including 187,499 persons	2
187,500 or more, up to and including 262,499 persons	3
262,500 or more, up to and including 337,499 persons	4
337,500 or more, up to and including 412,499 persons	5
412,500 or more persons	6

**(6) Subsection 121 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Alternate  
members

(3) A board of education, for which only one member is also a member of the School Board, may appoint one of its members as an alternate member of the School Board and the alternate member may attend the meetings of the School Board and of its committees, but shall not vote in meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which the alternate member belongs.

**(7) Subsection 121 (6) of the said Act is repealed.**

**(8) Subsection 122 (3) of the said Act is repealed and the following substituted therefor:**

(3) A person who is entitled to be a member of the School Board under subsection 121 (2) or an alternate member of the School Board under subsection 121 (3) shall not take a seat on the School Board until the person has filed at the first meeting of the School Board a certificate under the hand of the secretary of the board of education and under the seal of such board certifying that the person is entitled to be a member or an alternate member, as the case may be.

Certificate of  
qualification

**(9) Subsection 122 (5) of the said Act is amended by striking out "at least nine" in the second line and inserting in lieu thereof "a majority of the".**

**(10) Subsection 124 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 4, is repealed and the following substituted therefor:**

(1) The number of members of the School Board necessary to form a quorum is the majority of the number of members of which the School Board is composed under subsection 121 (2) and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry the matter.

Quorum  
voting

**(11) Subsection 124 (3) of the said Act is repealed.**

**(12) Subsections 125 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 5, are repealed.**

**(13) Subsections 126 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:**

(2) If a vacancy occurs in the office of an appointed member, the board of education of which the person was a member shall, within fifteen days after the vacancy occurs, appoint a successor from among its members to hold office for the remainder of the term of the person.

Other  
members

(3) The chairman of the School Board may resign the office as chairman without resigning from the board of education to which the chairman belongs.

Resignation  
of chairman

**30. Section 151 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed.**

**31.** Section 145 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed.

**32.** Section 158 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed.

**33.—(1)** Subsection 153 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “composed of seventeen members” in the third line.

(2) Subsection 153 (3) of the said Act is repealed.

(3) Subsections 153 (3a), (3b), (3c) and (3d) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 21, are repealed.

(4) Subsections 153 (4) and (5) of the said Act are repealed.

(5) Subsection 154 (4) of the said Act is repealed.

(6) Section 155 of the said Act is amended by inserting after “Part III” in the first line “and Part VII-A”.

**34.** Section 140 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

**35.** Section 123 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

**36.** Section 173 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed.

**37.** Section 137 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is repealed.

**38.—(1)** Subsection 2 (3) of *The Metropolitan Separate School Board Act, 1953*, being chapter 119, is repealed and the following substituted therefor:

Composition  
of board

(3) The Metropolitan Board shall consist of such number of members as is determined in accordance with Part VII-A of the *Education Act*.



(2) Section 4 of the said Act is repealed and the following substituted therefor:

4. Notwithstanding the *Municipal Elections Act*, the oath to be taken by a voter shall be as set out in Schedule B. Oath  
R.S.O. 1980,  
c. 308

(3) Clauses 13 (b), (c) and (d) of the said Act are repealed.

(4) Section 17 of the said Act is repealed and the following substituted therefor:

17. Except as otherwise provided in this Act, the Metropolitan Board shall be an urban separate school board within the meaning of the *Education Act* and with respect to the district shall enjoy all the rights, powers and privileges of and be subject to all the obligations imposed upon an urban separate school board by that Act. Metropolitan  
Board to be  
urban  
separate  
school board  
R.S.O. 1980,  
c. 129

(5) Schedule A to the said Act is repealed.

39. Section 3 of *The City of Sault Ste. Marie Act, 1977*, being chapter 103, is repealed.

40. Clause 32 (d) of *The City of Timmins-Porcupine Act, 1972*, being chapter 117, is repealed.

41.—(1) Notwithstanding that sections 1 to 40 do not come into force until the 1st day of December, 1988, the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted and the determinations and distributions in respect of those elections, including appeals and applications with respect thereto, shall be made as if sections 1 to 40, except section 25, of this Act were in force. Transition  
R.S.O. 1980,  
c. 308

(2) Notwithstanding that sections 1 to 40 do not come into force until the 1st day of December, 1988, where members of a board were elected in a municipality to represent areas established or continued under subsection 59 (23) or 113 (19) of the *Education Act* or under clause 32 (d) of *The City of Timmins-Porcupine Act, 1972* or to represent zones established by the Municipal Board under subsection 153 (3a) of the *Regional Municipality of Ottawa-Carleton Act* or to represent wards at the regular election held under the *Municipal Elections Act* in 1985, those areas, zones or wards or those areas, zones or wards as altered prior to the 2nd day of February, 1988, shall, unless dissolved, be deemed to be electoral areas established prior to that date under subsection 206a (21) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force. Idem  
R.S.O. 1980,  
c. 129  
1972, c. 117  
R.S.O. 1980,  
cc. 439, 308

Idem

(3) Notwithstanding subsection (2), for purposes of the election of members of the Metropolitan Separate School Board or of a board of education in Metropolitan Toronto, the local wards established by the Lieutenant Governor in Council for the regular elections to be held in 1988 in an area municipality within the meaning of the *Municipality of Metropolitan Toronto Act* shall be deemed to be electoral areas established, prior to the 2nd day of February, 1988, by the council of the area municipality at the request of the Metropolitan Separate School Board or of the board of education, as the case may be, under subsection 206a (21) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force.

R.S.O. 1980,  
c. 314

Idem

(4) The Minister may by order increase or decrease the total number of members to be elected to the Metropolitan Toronto French-language School Council by one or two members for the purposes of the regular elections to be held in 1988 under the *Municipal Elections Act*.

Idem

(5) Notwithstanding subsection (2), where a municipality within the area of jurisdiction of a board was divided into wards on the 1st day of February, 1988, the board may, by resolution made on or before the 10th day of August, 1988, establish the wards as electoral areas for the purposes of the election of members of the board in the regular elections to be held in 1988 under the *Municipal Elections Act*.

R.S.O. 1980,  
c. 308Commence-  
ment

**42.—(1)** Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 40 come into force on the 1st day of December, 1988.

Short title

**43.** The short title of this Act is the *Education Statute Law Amendment Act, 1988*.





# Bill 125

*(Chapter 27  
Statutes of Ontario, 1988)*

## **An Act to amend the Education Act and certain other Acts related to Education**

The Hon. C. Ward  
*Minister of Education*

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<i>1st Reading</i>	April 26th, 1988
<i>2nd Reading</i>	May 16th, 1988
<i>3rd Reading</i>	June 1st, 1988
<i>Royal Assent</i>	June 1st, 1988

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Bill 125

1988

**An Act to amend the Education Act and  
certain other Acts related to Education**

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

**1. Paragraph 37 of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

37. "population" means the population as determined by the latest enumeration taken under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,  
c. 31

**2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:**

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

- (a) prescribing the persons who shall make the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11) and an alternative distribution that is required to be made under subsection 206a (17) and the manner in which and the time by which they shall be made;
- (b) governing the distribution of information that relates to the determinations that are required to be made under subsections 206a (5) and (7) and distributions that are required to be made under subsection 206a (11) and an alternative distribution that is required to be made under subsection 206a (17) and information that relates to appeals and applications with respect to such determinations and distributions;

- (c) governing the nomination procedures for the election of members to boards from areas, including electoral areas established under subsections 277i (3) and (4), that are composed of all or part of two or more municipalities;
- (d) prescribing the duties to be performed by the clerks of the municipalities referred to in clause (c) and by the secretaries of boards in respect of nominations and elections.

Consistency  
with  
*Municipal  
Elections Act*  
R.S.O. 1980,  
c. 308

(11) A regulation made under clause (10) (c) or (d) shall not be inconsistent with the *Municipal Elections Act* except to the extent necessary to ensure that the nominations and the election referred to in those clauses are carried out in an efficient and orderly manner.

**3.** Subsection 53 (4) of the said Act is amended by striking out “pursuant to subsection 59 (9)” in the fifth line and inserting in lieu thereof “under subsection 206a (11) or (17)”.

**4.** Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following clause:

- (f) provide for the continuation of representation when a municipality is detached from one school division and added to another.

**5.—(1)** Subsection 55 (1) of the said Act is amended by striking out “sections 52 to 59” in the third and fourth lines and inserting in lieu thereof “sections 52 to 56, section 136i, and Parts VII-A and XI-A”.

(2) Subsection 55 (4) of the said Act is amended by inserting after “board” in the first line “other than a member of a French-language or English-language section”.

**6.** Subsections 56 (4), (5), (6), (7) and (8) of the said Act are repealed.

**7.** Sections 57 and 58 of the said Act are repealed.

**8.** Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16 and 1984, chapter 60, section 6, is repealed.

**9.** Section 61 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 17, is repealed.



**10.** Subsection 83 (6) of the said Act is repealed.

**11.** Subsection 88 (3) of the said Act is amended by striking out "section 90 or 100" in the eighth line and inserting in lieu thereof "section 100 or subsection 206a (6)".

**12.** Subsection 90 (1), as amended by the Statutes of Ontario, 1982, chapter 32, section 27, and subsections 90 (2) and (3) of the said Act are repealed.

**13.** Section 91 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 28, is repealed.

**14.** Section 92 of the said Act is repealed.

**15.—(1)** Subsection 103 (4) of the said Act is amended by striking out "section 90" in the fifth line and inserting in lieu thereof "subsection 206a (6)".

**(2)** Subsection 103 (7) of the said Act is amended by striking out "subsection 113 (21)" in the fifth line and inserting in lieu thereof "subsection 206a (11) or (17)".

**16.—(1)** Subsection 105 (2) of the said Act is amended by adding thereto the following clause:

- (d) provide for the continuation of representation when a municipality is detached from one combined school zone and added to another.

**(2)** Subsection 105 (4) of the said Act is amended by striking out "sections 113 to 115" in the last line and inserting in lieu thereof "sections 115 and 206a".

**17.** Subsection 106 (2) of the said Act is repealed.

**18.** Subsections 110 (4), (5), (6), (7) and (8) of the said Act are repealed.

**19.** Subsection 112 (3) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 18, is repealed.

**20.** Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37 and 1984, chapter 60, section 7, is repealed.

**21.** Subsection 115 (1) of the said Act is amended by inserting after "sections 105 to 118" in the third line "and section 206a".

**22.—(1)** Subsection 116 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

(2) Subsection 116 (2) of the said Act is amended by striking out “and shall consist of sixteen trustees” in the third and fourth lines.

(3) Subsections 116 (3), (4), (5) and (6) of the said Act are repealed.

**23.** Subsection 144 (2) of the said Act is amended by inserting after “Part IV” in the sixth line “and Part VII-A”.

**24.** The said Act is amended by adding thereto the following Part:

## PART VII-A

### TRUSTEE REPRESENTATION

#### *Public and Separate School Boards*

#### Definitions

**206a.—(1)** In this Part,

“board” means a board of education, an urban separate school board, a district combined separate school board or a county combined separate school board;

“coterminous Roman Catholic separate school board” means a Roman Catholic separate school board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a public board;

“electoral group” of a board means a category of persons that reside within the area of jurisdiction of the board;

“public school electoral group” means, with respect to a board, the electoral group that comprises exclusively persons who are public school supporters or public school electors and includes the dependants of the public school supporters and public school electors of the board;

“public school English-language electoral group” means the part of the public school electoral group that comprises exclusively persons who are not members of the public school French-language electoral group;

“public school French-language electoral group” means the part of the public school electoral group that comprises

exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms* to have their children receive their primary and secondary school instruction in the French language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“public school supporter” means a ratepayer who is not a separate school supporter;

“separate school electoral group” means, with respect to a board, the electoral group that comprises exclusively persons who are separate school supporters or separate school electors and includes the dependants of the separate school supporters and separate school electors of the board;

“separate school English-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who are not members of the separate school French-language electoral group;

“separate school French-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms*, to have their children receive their primary and secondary school instruction in the French-language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“total English-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school English-language electoral group and the separate school English-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school English-language electoral group,
- (c) for a separate school board, the separate school English-language electoral group;

“total French-language electoral group” means,

- (a) for a public board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school French-language electoral group and the separate school French-language electoral group,
- (b) for a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school French-language electoral group,
- (c) for a separate school board, the separate school French-language electoral group.

Elections

(2) The election of members of a board shall be conducted by the same officers and in the same manner as the election of members of the council of a municipality.

Change of boundaries

(3) The boundaries of the area of jurisdiction of a board or of a municipality that are to be altered as a result of,

- (a) a regulation made under subsection 54 (1) or 105 (2);
- (b) the establishment of a separate school zone under section 107;
- (c) an order of the Ontario Municipal Board;
- (d) an order of the Lieutenant Governor in Council under the *Municipal Boundary Negotiations Act, 1981*; or
- (e) any other Act,

1981, c. 70

R.S.O. 1980  
c. 308

on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so altered.

New city

(4) A new city that is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so erected.

Number of members on a board

(5) Subject to the increased number of members that may result from the application of rules 11, 12 and 13 of subsection (8) and the additional person that may be appointed by the board under section 165 to represent the interests of Indian pupils, the number of members on a board shall be deter-

mined in accordance with subsection (6) by the person prescribed by the regulations.

(6) A determination of the number of members on a board shall be made using the following rules, that shall be applied in order beginning with rule 1:

Rules for determination

1. For a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. The total population of all electoral groups of the board shall be equal to the sum of the populations of the public school electoral group and the separate school electoral group.
4. Subject to rule 6, the total number of members of a divisional board, an urban separate school board, a district combined separate school board or a county combined separate school board shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 5,000 persons	8
5,000 or more, up to and including 8,999 persons	10
9,000 or more, up to and including 14,999 persons	12
15,000 or more, up to and including 49,999 persons	14
50,000 or more, up to and including 115,999 persons	15
116,000 or more, up to and including 182,999 persons	17

183,000 or more, up to and including 282,999 persons	18
283,000 or more, up to and including 382,999 persons	19
383,000 or more, up to and including 482,999 persons	20
483,000 or more persons	21

5. Subject to rule 6, the total number of members on a board of education that is not a divisional board shall be the number of members as set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board	Total number of members
Less than 140,000 persons	8
140,000 or more, up to and including 234,999 persons	10
235,000 or more, up to and including 329,999 persons	13
330,000 or more, up to and including 424,999 persons	16
425,000 or more persons	19

6. Where a board approves, by a resolution passed by an affirmative vote of three-quarters of the members of the board in the year immediately preceding the year of a regular election under the *Municipal Elections Act* or before the 10th day of August, 1988, an increase or decrease of either one or two in the number of members of the board, the number of members of the board shall be deemed to be so increased or decreased for the next two subsequent regular elections.

R.S.O. 1980, c. 308

Number of members for each electoral group of a board

- (7) The number of members to be elected at each regular election under the *Municipal Elections Act* by the electors for each of the electoral groups of a board shall be determined in accordance with subsection (8) by the person prescribed by the regulations.

(8) A determination referred to in subsection (7) shall be made using the following rules, that shall apply in order starting with rule 1:

Rules for  
determination

1. For a public board, where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
3. If the board is not required to establish either a French-language or English-language section under Part XI-A then,
  - i. the population of the public school French-language electoral group shall be added to the population of the public school English-language electoral group and this total population shall be deemed to be the population of the public school English-language electoral group for the purposes of the subsequent rules in this subsection,
  - ii. the population of the separate school French-language electoral group shall be added to the population of the separate school English-language electoral group and this total population shall be deemed to be the population of the separate school English-language group for the purposes of the subsequent rules in this subsection, and
  - iii. the population of the total French-language electoral group shall be deemed to be zero.
4. If the board is required to establish an English-language section under Part XI-A, a reference in rule 5, 6 or 7 to English-language shall be deemed to be a reference to French-language and a reference to French-language shall be deemed to be a reference to English-language.
5. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
8. Where the sum of the number of members obtained using rules 5, 6 and 7 is less than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next lower integer by the greatest amount shall be increased by one.
9. Where the sum of the number of members obtained using rules 5, 6 and 7 is greater than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next higher integer by the greatest amount shall be decreased by one.
10. Where rule 8 or 9 is applied but cannot operate because the numbers of members calculated under subsection (9) for two or more electoral groups differ from the applicable integers by the same amount, the electoral group that shall have its number of members increased or decreased by one member shall be the largest electoral group.
11. Where the number of members calculated under rule 5 is less than three but greater than zero, then the number of members shall be deemed to be three.
12. Where the number of members calculated under rule 6 is less than three but greater than zero, then the number of members shall be deemed to be three.
13. Where the number of members calculated under rule 7 is less than one but greater than zero, then the number of members shall be deemed to be one.



(9) For the purposes of rules 5, 6 and 7 of subsection (8), the number of members shall be calculated using the following formula:

Calculation of number of members for purposes of rules 5, 6 and 7

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the population of the electoral group to which the rule applies

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6).

(10) For the purposes of rules 5, 6 and 7 of subsection (8) and rule 2 of subsection (18), the calculation shall be correct to the nearest integer with the fraction one-half being raised to the next higher integer.

Idem

(11) After the determinations required under this section are made, a distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (12) by the person prescribed by the regulations to,

Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(12) A distribution shall be made separately for each electoral group for which a distribution is not otherwise provided under section 277i or subsection 277t (1) according to the following rules that shall be applied in order beginning with rule 1:

Rules for distribution

1. Calculate the electoral quotient for each municipality and electoral area using the following formula:

$$\text{electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the total number of members that represents the electors of the electoral group calculated by the rules in subsection (8)

c = the total population of the electoral group.

2. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its electoral quotient.
3. Two or more adjoining municipalities or two or more adjoining electoral areas within a municipality may be combined so that the sum of the electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
4. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas within a municipality shall be as nearly as practicable, the sum of the electoral quotients of the municipalities or electoral areas so combined.

Designation  
by board

(13) A board may by a resolution passed by an affirmative vote of three-quarters of the members of the board designate one or more municipalities wholly or partly within the area of jurisdiction of the board as a low population municipality or municipalities.

Resolution  
by members  
representing  
electoral  
group

(14) Where a board has made a designation under subsection (13), the members of the board who represent an electoral group may direct, by a resolution passed by an affirmative vote of three-quarters of those members, that,

- (a) an alternative distribution of members representing that electoral group be made to the municipality or municipalities designated by the board under subsection (13); and
- (b) the sum of the electoral quotients for the municipality or municipalities be increased by one or by two.

Effect of  
resolution  
R.S.O. 1980,  
c. 308

(15) A resolution passed under subsection (13) or (14) shall be passed in the year of a regular election under the *Municipal Elections Act* and shall be effective only for the purposes of the regular election to be held in that year.

(16) A resolution under subsection (13) or (14) has no effect unless it is made not later than five days after the date on which a distribution under subsection (11) is required to be made. Idem

(17) Pursuant to a resolution passed by the members of an electoral group of a board under subsection (14), an alternative distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (18) by the person prescribed by the regulations to, Distribution of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(18) An alternative distribution for an electoral group shall be made according to the following rules that shall be applied in order beginning with rule 1: Rules for distribution

1. Place the municipalities in two groups, one of which shall be comprised of the municipality or municipalities designated under subsection (13) and one of which shall be comprised of the remaining municipalities.
2. Calculate the sum of the electoral quotients, determined under subsection (12), for each group of municipalities.
3. For the group of municipalities that is designated under subsection (13), add to the sum of the electoral quotients the number one or two as determined by resolution of the electoral group passed under subsection (14).
4. For the group of the remaining municipalities, subtract from the sum of the electoral quotients one or two, as the case may be.
5. Calculate the alternative electoral quotient for each municipality and electoral area using the following formula:

$$\text{alternative electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the number calculated by rule 3 or 4, as the case requires

c = the total population of the electoral group resident in the group of municipalities to which the municipality or electoral area belongs.

6. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be, as nearly as practicable, its alternative electoral quotient.
7. Two or more adjoining municipalities that were placed under rule 1 in the same group or two or more adjoining electoral areas within a municipality may be combined so that the sum of the alternative electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
8. The number of members that represent the electors of the electoral group for a combination of municipalities or for a combination of electoral areas shall be, as nearly as practicable, the sum of the alternative electoral quotients of the municipalities or electoral areas so combined.

Effect of  
alternative  
distribution

(19) An alternative distribution of those members that represent the electors of an electoral group that is made under subsection (17) shall, in lieu of the distribution that is required to be made under subsection (11), be the distribution for those members at the next regular election under the *Municipal Elections Act* and for the purposes of sections 206b and 206c shall be deemed to be a distribution made under subsection 206a (11).

R.S.O. 1980,  
c. 308

Election by  
general vote

(20) The members representing an electoral group for a municipality shall be elected by general vote of the electors eligible to vote in the municipality for those members.

Electoral  
areas in a  
municipality

(21) Notwithstanding subsection (20), where the number of members representing an electoral group to be elected under that subsection may be two or more, the council of the municipality may, where so requested by the board, by by-law divide the municipality into two or more electoral areas for

the purposes of an election under the *Municipal Elections Act* and a member representing an electoral group for an electoral area shall be elected by general vote of the electors eligible to vote in the electoral area for that member.

R.S.O. 1980,  
c. 308

(22) A by-law referred to in subsection (21) and a by-law repealing any such by-law shall not be passed later than the 1st day of February in the year of a regular election under the *Municipal Elections Act* and shall take effect for the purpose of the regular election next following the passing of the by-law and remain in force until repealed.

Time for  
passing by-  
law

(23) Notwithstanding section 277i, where a municipality is divided into wards, an electoral area may include one or more wards but each ward shall be located entirely within the electoral area.

Wards in  
electoral  
areas

(24) Where two or more municipalities or electoral areas are combined for the election of one or more members who represent an electoral group, the member or members shall be elected by a general vote of the electors eligible to vote in the combined municipalities or combined electoral areas, as the case may be, for those members.

Election in  
combined  
municipalities

### *Appeal*

**206b.**—(1) After the determinations are made as required under subsections 206a (5) and (7) and the distribution is made as required under subsection 206a (11) with respect to a board, the determinations and the distribution or the distribution may be appealed to a judge.

Appeal

(2) An appeal under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Idem

(3) An appeal on a distribution only may be made only where the distribution allots to a municipality or to a combination of municipalities a number of members to be elected by the electors of an electoral group that is different from the electoral quotient of the municipality or the sum of the electoral quotients for the combined municipalities by an amount that is greater than 0.05 times the total number of members to be elected by the electoral group.

Appeal on  
distribution

(4) An appeal shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for  
appeal

Time for decision (5) The judge shall make a decision with respect to an appeal within thirty days after the appeal is commenced.

Decision of judge on appeal (6) The judge on an appeal under this section may,

- (a) vary a determination or distribution that is the subject of the appeal; or
- (b) confirm that a determination or distribution that is the subject of the appeal was made in accordance with section 206a.

Idem (7) The decision of a judge on an appeal under this section is final and the appropriate person prescribed by the regulations to make the determination or distribution shall forthwith make such changes as the judge requires.

Where no appeal (8) Where an appeal is not made or is not made within a time referred to in subsection (4), a board shall be deemed to be properly constituted notwithstanding any defect in a determination or distribution.

### *Applications*

Application for determination or distribution **206c.**—(1) An application may be made to a judge to make,

- (a) the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11); or
- (b) the distribution that is required to be made under subsection 206a (11),

where the determinations and the distribution are not made or a distribution is not made.

Idem (2) An application under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Time for application (3) An application shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for determination (4) The judge shall make the determinations and distribution or the distribution, as the case requires, within thirty days after the application is commenced.

(5) A determination or distribution made by a judge under subsection (4) is not subject to appeal and shall be deemed to be a determination or distribution made under section 206a.

Determi-  
nation or  
distribution  
final

(6) Where,

No determi-  
nation or  
distribution

- (a) determinations and distributions are not made;
- (b) a distribution is not made; or
- (c) the judge does not deal with the application within the thirty day time period required,

the determinations and distribution or the distribution, as the case may be, at the last regular election under the *Municipal Elections Act* shall be deemed to be the determinations and distribution or the distribution for the purposes of the next regular election.

R.S.O. 1980,  
c. 308

**25.** The said Act is further amended by adding thereto the following section:

**206d.**—(1) Upon the application of a board authorized by a resolution thereof, or upon the application of petitioners in accordance with subsection (4), the Ontario Municipal Board may, by order,

Electoral  
areas

- (a) divide or redivide a municipality within the area of jurisdiction of a school board into electoral areas and shall designate the name or number each electoral area shall bear and shall declare the date the division or redivision shall take effect;
- (b) alter or dissolve any or all of the electoral areas created by an order under clause (a) and shall declare the date when such alterations or dissolutions shall take effect; and
- (c) notwithstanding the *Municipal Elections Act* or section 206a or the regulations, make such provisions as are considered necessary for the holding of elections of members to the board by electors in electoral areas created or altered under this subsection.

R.S.O. 1980,  
c. 308

(2) Notwithstanding clause (1) (a) or (b), the Ontario Municipal Board may not create an electoral area under those clauses that contains part only of a ward.

Limitation

(3) While a provision of an order of the Ontario Municipal Board authorized by subsection (1) is in effect for the pur-

Election

poses of an election, the members of the board to be elected at the election by electors shall be elected in accordance with the provision of the order and not in accordance with subsection 206a (21).

Petition

(4) A petition of 150 or more persons who are qualified to elect members to the board may be presented to a school board requesting the board to apply to the Ontario Municipal Board to divide or redivide a municipality within the area of jurisdiction of the board into electoral areas or to alter or dissolve any or all of the existing electoral areas created by order of the Ontario Municipal Board, and if the board refuses or neglects to make the application within one month after receipt by the board of the petition, the petitioners or any of them may apply to the Ontario Municipal Board for the division, redivision, alteration or dissolution, as the case may be.

Electoral  
area

(5) An electoral area established by the Ontario Municipal Board under this section shall be deemed to be an electoral area referred to in subsection 206a (21).

**26.** Section 277f of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

**27.—(1)** Subsection 277i (8) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “other members” in the sixth line and inserting in lieu thereof “members of the French-language section”.

(2) Subsection 277i (11) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

**28.—(1)** Subsection 277q (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(2) Subsection 277q (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(3) Subsection 277q (5) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(4) Clause 277q (6) (a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended



by striking out “subsections (1) and (2)” in the second and third lines and inserting in lieu thereof “subsection (1)”.

(5) Clause 277q (6) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(6) Clause 277q (6) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

- (d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section.

(7) Subsection 277q (7) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(8) Clause 277q (9) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(9) Clause 277q (9) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

- (d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section,

**29.—(1)** Subsection 118 (2) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 18, section 10, is repealed.

(2) Subsection 118 (3) of the said Act is repealed.

(3) Subsection 118 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 2, is repealed.

(4) Subsections 120b (3), (5), (6), (7), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 13, are repealed and the following substituted therefor:

(3) The Council is a body corporate.

Body  
corporate

**(5) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 11, 1986, chapter 21, section 6 and 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Members of  
School Board

(2) On and after the 1st day of December, 1988, the School Board shall be composed of the chairman of, and other members appointed by, each board of education in Metropolitan Toronto in accordance with subsection (2a).

Numbers of  
members

(2a) The total number of members, including the chairman, representing each board of education shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups of the board of education	Total number of members
Less than 112,500 persons	1
112,500 or more, up to and including 187,499 persons	2
187,500 or more, up to and including 262,499 persons	3
262,500 or more, up to and including 337,499 persons	4
337,500 or more, up to and including 412,499 persons	5
412,500 or more persons	6

**(6) Subsection 121 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 29, section 13, is repealed and the following substituted therefor:**

Alternate  
members

(3) A board of education, for which only one member is also a member of the School Board, may appoint one of its members as an alternate member of the School Board and the alternate member may attend the meetings of the School Board and of its committees, but shall not vote in meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which the alternate member belongs.

**(7) Subsection 121 (6) of the said Act is repealed.**

**(8) Subsection 122 (3) of the said Act is repealed and the following substituted therefor:**

(3) A person who is entitled to be a member of the School Board under subsection 121 (2) or an alternate member of the School Board under subsection 121 (3) shall not take a seat on the School Board until the person has filed at the first meeting of the School Board a certificate under the hand of the secretary of the board of education and under the seal of such board certifying that the person is entitled to be a member or an alternate member, as the case may be.

Certificate of qualification

**(9) Subsection 122 (5) of the said Act is amended by striking out "at least nine" in the second line and inserting in lieu thereof "a majority of the".**

**(10) Subsection 124 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 4, is repealed and the following substituted therefor:**

(1) The number of members of the School Board necessary to form a quorum is the majority of the number of members of which the School Board is composed under subsection 121 (2) and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry the matter.

Quorum voting

**(11) Subsection 124 (3) of the said Act is repealed.**

**(12) Subsections 125 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 5, are repealed.**

**(13) Subsections 126 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:**

(2) If a vacancy occurs in the office of an appointed member, the board of education of which the person was a member shall, within fifteen days after the vacancy occurs, appoint a successor from among its members to hold office for the remainder of the term of the person.

Other members

(3) The chairman of the School Board may resign the office as chairman without resigning from the board of education to which the chairman belongs.

Resignation of chairman

**30. Section 151 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed.**

**31.** Section 145 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed.

**32.** Section 158 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed.

**33.—**(1) Subsection 153 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “composed of seventeen members” in the third line.

(2) Subsection 153 (3) of the said Act is repealed.

(3) Subsections 153 (3a), (3b), (3c) and (3d) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 21, are repealed.

(4) Subsections 153 (4) and (5) of the said Act are repealed.

(5) Subsection 154 (4) of the said Act is repealed.

(6) Section 155 of the said Act is amended by inserting after “Part III” in the first line “and Part VII-A”.

**34.** Section 140 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

**35.** Section 123 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

**36.** Section 173 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed.

**37.** Section 137 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is repealed.

**38.—**(1) Subsection 2 (3) of *The Metropolitan Separate School Board Act, 1953*, being chapter 119, is repealed and the following substituted therefor:

(3) The Metropolitan Board shall consist of such number of members as is determined in accordance with Part VII-A of the *Education Act*.

(2) Section 4 of the said Act is repealed and the following substituted therefor:

4. Notwithstanding the *Municipal Elections Act*, the oath to be taken by a voter shall be as set out in Schedule B. Oath  
R.S.O. 1980,  
c. 308

(3) Clauses 13 (b), (c) and (d) of the said Act are repealed.

(4) Section 17 of the said Act is repealed and the following substituted therefor:

17. Except as otherwise provided in this Act, the Metropolitan Board shall be an urban separate school board within the meaning of the *Education Act* and with respect to the district shall enjoy all the rights, powers and privileges of and be subject to all the obligations imposed upon an urban separate school board by that Act. Metropolitan  
Board to be  
urban  
separate  
school board  
R.S.O. 1980,  
c. 129

(5) Schedule A to the said Act is repealed.

39. Section 3 of *The City of Sault Ste. Marie Act, 1977*, being chapter 103, is repealed.

40. Clause 32 (d) of *The City of Timmins-Porcupine Act, 1972*, being chapter 117, is repealed.

41.—(1) Notwithstanding that sections 1 to 40 do not come into force until the 1st day of December, 1988, the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted and the determinations and distributions in respect of those elections, including appeals and applications with respect thereto, shall be made as if sections 1 to 40, except section 25, of this Act were in force. Transition  
  
R.S.O. 1980,  
c. 308

(2) Notwithstanding that sections 1 to 40 do not come into force until the 1st day of December, 1988, where members of a board were elected in a municipality to represent areas established or continued under subsection 59 (23) or 113 (19) of the *Education Act* or under clause 32 (d) of *The City of Timmins-Porcupine Act, 1972* or to represent zones established by the Municipal Board under subsection 153 (3a) of the *Regional Municipality of Ottawa-Carleton Act* or to represent wards at the regular election held under the *Municipal Elections Act* in 1985, those areas, zones or wards or those areas, zones or wards as altered prior to the 2nd day of February, 1988, shall, unless dissolved, be deemed to be electoral areas established prior to that date under subsection 206a (21) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force. Idem  
  
R.S.O. 1980,  
c. 129  
1972, c. 117  
R.S.O. 1980,  
cc. 439, 308

Idem

(3) Notwithstanding subsection (2), for purposes of the election of members of the Metropolitan Separate School Board or of a board of education in Metropolitan Toronto, the local wards established by the Lieutenant Governor in Council for the regular elections to be held in 1988 in an area municipality within the meaning of the *Municipality of Metropolitan Toronto Act* shall be deemed to be electoral areas established, prior to the 2nd day of February, 1988, by the council of the area municipality at the request of the Metropolitan Separate School Board or of the board of education, as the case may be, under subsection 206a (21) of the *Education Act*, as enacted by section 24 of this Act, as if that subsection were in force.

R.S.O. 1980,  
c. 314

Idem

(4) The Minister may by order increase or decrease the total number of members to be elected to the Metropolitan Toronto French-language School Council by one or two members for the purposes of the regular elections to be held in 1988 under the *Municipal Elections Act*.

Idem

(5) Notwithstanding subsection (2), where a municipality within the area of jurisdiction of a board was divided into wards on the 1st day of February, 1988, the board may, by resolution made on or before the 10th day of August, 1988, establish the wards as electoral areas for the purposes of the election of members of the board in the regular elections to be held in 1988 under the *Municipal Elections Act*.

R.S.O. 1980,  
c. 308Commence-  
ment

**42.—(1)** Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 40 come into force on the 1st day of December, 1988.

Short title

**43.** The short title of this Act is the *Education Statute Law Amendment Act, 1988*.







# Bill 126

## **An Act to assist Ontario Residents to save for the purchase of a First Home**

The Hon. B. Grandmaître  
*Minister of Revenue*

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*1st Reading*      May 2nd, 1988

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill, together with amendments that will be proposed to the *Income Tax Act*, is to implement the proposal contained in the Treasurer's Budget of April 20, 1988, to assist eligible Ontario residents to save for the purchase of a first home by allowing refundable income tax credits for qualifying contributions made to an Ontario home ownership savings plan. The principal features of the Bill are as follows:

1. An individual, who is resident in Ontario and eighteen or more years of age, and his or her spouse if married, may each open one Ontario home ownership savings plan with a participating financial institution (a depository), if neither has previously owned an eligible home. Each may make an annual contribution of up to \$2,000 to his or her plan in five consecutive years, commencing with the year in which the plan is opened, for the purpose of saving for the purchase of a qualifying eligible home by the end of 1999.
2. Amendments, to be proposed in a separate Bill to amend the *Income Tax Act*, will permit the claiming of a refundable tax credit by an eligible individual, or by his or her spouse if married, in respect of qualifying contributions made by them to the Ontario home ownership savings plans, if their income is below the maximum level proposed in the Budget and they otherwise qualify.
3. For the purposes of this program, an eligible home includes a detached and semi-detached house, a townhouse, shares of a co-operative housing corporation, a mobile home suitable for permanent residency, a condominium unit and a residential duplex, triplex or fourplex.
4. When a planholder enters into an agreement to purchase a qualifying eligible home, the planholder may apply to the depository of the plan for release of the funds in the plan to his or her solicitor for use in completing the purchase. No tax credits are repayable where the planholder has complied with the provisions of the Act and has used the assets of the plan to purchase a qualifying eligible home by the end of 1999.
5. When any assets of the plan are released or deemed to be released for any purpose other than the purchase of a qualifying eligible home, all tax credits allowed to the planholder, or to his or her spouse, with respect to qualifying contributions made by the planholder to the plan, are repayable to the Treasurer, together with interest. The depository of the plan will be required to withhold and remit 25 per cent of the value of the plan to the Minister of Revenue on account of the amount payable by the planholder. The Minister will calculate the amount payable by the planholder and make any refund to or collect any balance payable from the planholder, as applicable.
6. An Ontario home ownership savings plan will terminate on the death of the planholder; but the planholder may elect that on his or her death the assets of the plan will be transferred to the plan of the spouse, if the spouse is otherwise eligible and has an Ontario home ownership savings plan.
7. The assets of an Ontario home ownership savings plan must be kept in qualified investments which are deposits with the Province of Ontario Savings Office, or with another depository if they are insured by the Canadian Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation, which are payable on demand or, if having a fixed term, are redeemable at the option of the planholder prior to maturity.
8. The Minister may close an Ontario home ownership savings plan and recover tax credits previously allowed where it is determined that the plan fails to comply with the required provisions or the planholder is not eligible under the Act. The Minister may also recover tax credits for similar reasons after the plan-

holder has purchased a home or if the planholder uses the assets of the plan to purchase property that is not a qualifying eligible home.

9. Administrative provisions relating to audits, requests for information, offences, the keeping of adequate records and legal action to recover tax credits are similar to those contained in other statutes administered by the Minister of Revenue, and provisions relating to the filing of objections and applications to the Supreme Court are similar to those contained in the *Employee Share Ownership Plan Act, 1988*.



Bill 126

1988

**An Act to assist Ontario Residents  
to save for the purchase of a First Home**

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8. Replacement depositary	16. Confidentiality
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	18. Limitation
	19. Regulations
	20. Commencement
	21. Short title

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,

Definitions

“assets of the plan”, in respect of a home ownership savings plan, means all contributions made into the plan, any transfers made into the plan under section 7 and all income earned therefrom and on assets substituted therefor, whether or not the assets of the plan are in the form of qualified investments;

“contribution” means an amount of money paid by an individual to a depositary as a payment into a home ownership savings plan;

“depositary” means a branch or office in Ontario of,

(a) the Province of Ontario Savings Office, or

(b) a person who is,

(i) a member of the Canadian Payments Association or eligible to become a member thereof, or

(ii) a credit union that is a shareholder or member of a body corporate referred to as a "central" for the purposes of the *Canadian Payments Association Act* (Canada),

S.C. 1980-81-82-83, c. 40

who is a member institution of the Canada Deposit Insurance Corporation or of the Ontario Share and Deposit Insurance Corporation;

"home ownership savings plan" means an arrangement entered into by an individual and a depository under which payment is made by the individual to the depository of an amount of money as a payment under the arrangement to be used, invested or otherwise applied by the depository for the purpose of providing to the individual as the planholder under the arrangement an amount of money to be used by the individual for the purchase by him or her of a qualifying eligible home;

R.S.C. 1952, c. 148

"individual" means a person other than either a trust referred to in subdivision k of Division B of Part I of the *Income Tax Act* (Canada) or a corporation;

"Minister" means the Minister of Revenue;

"Ontario home ownership savings plan" means a home ownership savings plan that complies with section 2;

"planholder", in respect of a home ownership savings plan, means an individual eighteen or more years of age to whom, under the plan, a single payment is agreed to be paid, but does not include an individual to whom under a plan a single payment is agreed to be paid as a consequence of the death of another individual;

"prescribed" means prescribed by the regulations;

"qualified investment" means an investment that is a qualified investment for the purposes of section 4;

"qualifying contribution" has the meaning given to that expression by section 3;

“qualifying eligible home” has the meaning given to that expression by subsection 5 (4);

“regulations” means the regulations made under this Act;

“solicitor” means a member of the Law Society of Upper Canada who is entitled to practise law in Ontario as a barrister and solicitor and who maintains all insurance coverage that may be required by the Law Society of Upper Canada from time to time in connection with and for the purposes of carrying on the private practice of law in Ontario;

“spouse” means an individual to whom an individual is married;

“tax credit” means an Ontario home ownership savings plan tax credit allowed to an individual or the individual’s spouse or former spouse under the *Income Tax Act* with respect to the amount of qualifying contributions made by the individual to an Ontario home ownership savings plan; R.S.O. 1980,  
c. 213

“tax credit recovery” means the amount determined under subsection 9 (1);

“taxation year” has the meaning given to that expression by the *Income Tax Act*;

“Treasurer” means the Treasurer of Ontario.

(2) For the purposes of this Act, an eligible home is,

Eligible  
home

- (a) a detached house;
- (b) a semi-detached house;
- (c) a townhouse;
- (d) a share or shares of the capital stock of a co-operative corporation if the share or shares are acquired for the purpose of acquiring the right to inhabit a housing unit owned by the corporation;
- (e) a mobile home that complies with the prescribed standards and is suitable for year round permanent residential occupation;
- (f) a condominium unit;

- (g) a residential dwelling that is a duplex, triplex or a fourplex; or
- (h) any other residential property as may be prescribed.

Ownership of  
eligible home

(3) For the purposes of this Act, an individual shall not be considered to own an eligible home unless,

- (a) in the case of an eligible home referred to in clause (2) (a), (b), (c) or (g), the individual has an ownership interest in the eligible home and,
  - (i) owns a freehold estate in the land subjacent to the eligible home other than as a mortgagee, or
  - (ii) is a lessee of the land subjacent to the eligible home;
- (b) in the case of an eligible home that is a condominium unit, the individual is an owner of the unit and common elements within the meaning of the *Condominium Act*;
- (c) in the case of an eligible home in the form of a share or shares of the capital stock of a co-operative corporation,
  - (i) the individual has acquired, jointly with another person or otherwise, the share or shares to enable the individual to acquire a right to occupy a housing unit owned by the co-operative corporation,
  - (ii) the individual and the co-operative corporation have entered into an enforceable occupancy agreement in respect of the housing unit, and
  - (iii) the individual is entitled to vacant possession of the housing unit under the terms of the occupancy agreement;
- (d) in the case of an eligible home that is a mobile home suitable for year-round permanent residential occupation,
  - (i) the individual, either alone or jointly with another person, has completed the purchase of the mobile home,

R.S.O. 1980,  
c. 84



- (ii) the mobile home is situated on a foundation, which meets the prescribed standards, on the land where it is to be inhabited, and
  - (iii) the land is owned by the individual, jointly with another person or otherwise, or is occupied by the individual under a licence or lease that permits the individual to locate the mobile home on the land and to occupy it as a year-round residence; and
- (e) in the case of an eligible home of a prescribed class or nature, or owned by a member of a prescribed class of persons, the prescribed terms and conditions are met.

**2.** For the purposes of this Act and the *Income Tax Act*, a home ownership savings plan entered into by a planholder and a depositary after the 31st day of August, 1988, and before the 1st day of January, 1994, that complies with the following terms and conditions is an Ontario home ownership savings plan:

Terms of  
Ontario  
home  
ownership  
savings plan  
R.S.O. 1980,  
c. 213

1. The terms of the plan do not permit any payment to the planholder of any asset of the plan except by way of,
  - i. a single payment of all of the assets of the plan to a solicitor designated by the planholder to hold the assets of the plan as trust property in trust for the planholder and the Crown jointly and to legally represent the planholder in the purchase by the planholder of a qualifying eligible home, or
  - ii. a single payment of all the assets of the plan, less the amount to be withheld by the depositary under section 9 or the amount, if any, directed by the Minister under subsection 5 (5), to the planholder or to the legal personal representative of the planholder upon the death of the planholder.
2. The terms of the plan require the depositary to withhold and remit to the Minister the percentage of the total value of the assets of the plan required under section 9 on any payment of assets of the plan to the planholder or to the legal personal representative of the planholder upon the death of the planholder.

3. The terms of the plan prohibit the depositary from terminating the plan without the consent of the Minister when the assets of the plan have been released under section 5.
4. The terms of the plan provide that the depositary will accept repayment of assets into the plan from a solicitor to whom assets of the plan were paid.
5. The terms of the plan provide that the payment to the planholder is not capable in whole or in part of surrender, assignment or transfer except as permitted by an election under section 7.
6. The planholder is at least eighteen years of age and a resident of Ontario at the time of entering into the plan.
7. The planholder has been assigned a Social Insurance Number referred to in section 237 of the *Income Tax Act* (Canada) and has provided that number and the Social Insurance Number of the planholder's spouse, if the planholder is married, to the depositary at the time of entering into the plan.
8. The planholder is not and has never previously been a planholder under any other Ontario home ownership savings plan.
9. The planholder has never owned an eligible home anywhere in the world.
10. No spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned an eligible home anywhere in the world.
11. The terms of the plan prohibit any amendment to the terms of the plan other than the addition or deletion of the right of the planholder to make an election described in subsection 7 (1).
12. The terms of the plan provide that on the death of the planholder, the depositary shall transfer or distribute all assets of the plan, less any amount required by section 9 to be withheld and remitted to the Minister, in accordance with this Act.

13. The terms of the plan prohibit the holding of the assets of the plan in any form other than qualified investments.
14. The plan includes a provision denying the depository any right of set-off as regards the assets of the plan in connection with any debt or obligation to the depository that the planholder under the plan owes or may thereafter owe.
15. The terms of the plan provide that no loan or advance may be made to the planholder or to any person with whom the planholder does not deal at arm's length, within the meaning of section 251 of the *Income Tax Act* (Canada), if a condition of such loan or advance is the existence of the plan. R.S.C. 1952,  
c. 148
16. The terms of the plan include the acknowledgment by the planholder that he or she understands that the amount of a tax credit, if any, available under the *Income Tax Act* with respect to contributions made to the plan in any year depend on the planholder's level of income for that year and that the provisions of this Act apply notwithstanding that the planholder may not be entitled to a tax credit in any year. R.S.O. 1980,  
c. 213
17. The terms of the plan provide that no receipt for the purposes of the *Income Tax Act* with respect to contributions made to the plan during a year may be issued until after the end of the year, and no such receipt shall be issued where the planholder has received, or has been deemed by this Act to have received, any assets of the plan or the use or benefit of any assets of the plan, other than in accordance with section 5.
18. The terms of the plan contain the consent of the planholder to the release to the Minister of all information obtained by the depository with respect to the plan, the planholder and the planholder's spouse, if any, for the purposes of this Act and the operation of the plan.
19. The terms of the plan comply with any additional prescribed conditions or requirements.

**3.—(1)** The total amount of a planholder's qualifying contributions to an Ontario home ownership savings plan for a

Maximum  
annual  
qualifying  
contributions

R.S.O. 1980,  
c. 213

calendar year for the purposes of this Act and the *Income Tax Act* shall not exceed the lesser of,

- (a) the total amount of qualifying contributions made by the planholder to the planholder's Ontario home ownership savings plan during the calendar year; and
- (b) \$2,000.

Time limit  
for qualifying  
contributions

(2) No contribution to an Ontario home ownership savings plan shall be a qualifying contribution unless it is made on or before the earlier of,

- (a) the 31st day of December, 1997; and
- (b) the 31st day of December of the fourth calendar year ending after the end of the calendar year in which the plan was entered into by the depository and the planholder.

Idem

(3) No contribution to an Ontario home ownership savings plan shall be a qualifying contribution for the purposes of this Act and the *Income Tax Act* where,

- (a) the planholder has received or has been deemed by this Act to have received, other than by reason of death, any assets of the plan or the benefit or use of any assets of the plan during the year in which the contribution is made, otherwise than for the purpose of purchasing a qualifying eligible home described in subsection 5 (4);
- (b) the contribution has been made at a time when the planholder or a spouse of the planholder with whom the planholder resides, or from whom the planholder is separated for reasons other than marriage breakdown,
  - (i) is the owner of an eligible home, or
  - (ii) is a partner in a partnership that owns property that would be an eligible home of the partner if the property was owned by the partner;
- (c) the planholder or a spouse of the planholder with whom the planholder resides at the end of the calendar year in which the contribution is made, or from whom the planholder lives separate and apart

for reasons other than marriage breakdown, owns or owned at any time an interest in an eligible home, other than an interest in the qualifying eligible home referred to in clause (a); or

- (d) the planholder does not reside in Ontario at the end of the taxation year in which the contribution is made.

**4.—(1)** A depository of an Ontario home ownership savings plan shall hold all assets of the plan only in qualified investments.

Duty to hold in qualified investments

(2) For the purposes of this Act, a qualified investment is,

Qualified investments defined

- (a) money that is legal tender in Canada;
- (b) a deposit that is,
- (i) with a branch of the Province of Ontario Savings Office or insured by the Canadian Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation, and
- (ii) repayable on demand or, where the deposit has a fixed maturity date, is redeemable at the option of the planholder prior to maturity; or
- (c) any other type of investment prescribed by the regulations.

**5.—(1)** Where a planholder has entered into a written agreement to purchase an eligible home that will be a qualifying eligible home described in subsection (4) and requests release from the planholder's Ontario home ownership savings plan of assets of the plan to be applied towards the purchase price of the eligible home, the following rules apply:

Purchase of qualifying eligible home

1. The planholder shall designate a solicitor for the purposes of this Act in the prescribed manner.
2. The planholder shall make application to the depository of the Ontario home ownership savings plan in the prescribed manner and in the prescribed form for release of the assets of the plan.
3. The depository shall release, not earlier than thirty days before the date set out in the agreement of purchase and sale as the date of closing of the pur-

chase of the eligible home, the assets of the plan as trust property to the solicitor designated by the planholder and shall file with the Minister at the prescribed time a return in the prescribed form notifying the Minister of the particulars of the release.

4. The solicitor designated by the planholder shall hold the assets of the plan released by the depository separate and apart from the solicitor's own money, assets and estate, in trust for the benefit of the planholder and Her Majesty in right of Ontario, jointly, and shall deal with the trust property only as provided in paragraph 5 or 6, as applicable.
5. In the event that,
  - i. the agreement of purchase and sale of the eligible home is not completed within the prescribed time after release by the depository of the assets of the plan to the solicitor in trust,
  - ii. the solicitor declines to accept receipt of the assets of the plan in trust, or declines to assume or fulfil the duties required of the solicitor under this Act, or
  - iii. the solicitor declines to or ceases to represent the planholder in the purchase by the planholder of the eligible home,

the solicitor shall forthwith remit the entire assets of the plan to the depository in the prescribed manner.

6. Where the agreement of purchase and sale of the eligible home is completed within the prescribed time, the solicitor may release the assets of the plan to the vendor under the agreement of purchase and sale or to the planholder as part or all of the consideration payable by the planholder for the purchase of the eligible home.
7. Upon completion of the purchase of the eligible home by the planholder and the disbursement by the solicitor of the assets of the plan, the solicitor shall file with the Minister proof acceptable to the Minister of the completion of the purchase of the eligible home and the fulfilment by the solicitor of his or her duties under this Act.

(2) For the purposes of paragraph 1 of section 2, no payment shall be deemed to have been made by a depository of an Ontario home ownership savings plan to a solicitor where the solicitor has remitted the assets of the plan received from the depository to the depository under paragraph 5 of subsection (1). Idem

(3) The interest of Her Majesty in right of Ontario in the assets of the plan shall be deemed to be released only where the solicitor has paid over the assets of the plan in accordance with paragraph 6 of subsection (1) on the purchase by the planholder of an eligible home that will be a qualifying eligible home. Release of Crown's interest

(4) For the purposes of this Act, an eligible home is a qualifying eligible home only where, Qualifying eligible home defined

- (a) the eligible home is located in Ontario and is suitable for use as a year-round dwelling place, or, in the case of an eligible home that is in the form of a share or shares in the capital stock of a co-operative corporation, the housing unit is located in Ontario and is suitable for use as a year-round dwelling place;
- (b) the eligible home is the first eligible home anywhere owned, jointly with another person or otherwise, by the planholder; and
- (c) the eligible home is acquired as the principal residence of the planholder to be ordinarily inhabited by the planholder or by the planholder's spouse or an individual who was the planholder's spouse at the time of acquisition by the planholder of the eligible home, or by both of them, for a period of at least thirty consecutive days within two years of the first day of ownership by the planholder.

(5) Where the assets of the plan have not been released under subsection (1), the Minister may, if the Minister is satisfied that the planholder has purchased property that is or may become a qualifying eligible home under subsection (4), Minister's discretion to release

- (a) consent to the release of the assets of the plan by the depository to the planholder;
- (b) direct that no amount, or an amount not in excess of the amount otherwise determined under subsection 9 (2), be deducted, withheld and remitted to

the Minister by the depository of the plan under subsection 9 (2); and

- (c) impose such conditions on the release as the Minister, in his or her discretion, considers necessary to ensure compliance with this Act and the regulations.

Refund

(6) Where an amount has been deducted, withheld and remitted under clause (5) (b), the Minister may refund the amount to the planholder, together with interest on the amount at the prescribed rate, where the Minister is satisfied that the property purchased by the planholder is or will be a qualifying eligible home under subsection (4).

Death of planholder

**6.** Subject to section 7, in the event of the death of a planholder of an Ontario home ownership savings plan,

- (a) the planholder shall be deemed to have received all of the assets of the plan immediately before his or her death; and
- (b) the depository of the Ontario home ownership savings plan shall pay over the assets of the plan, less the amount required to be withheld and remitted to the Minister under section 9, to the legal personal representative of the deceased planholder or, where the planholder had previously designated in writing a person entitled to receipt of the assets of the plan on the death of the planholder, to such person.

Election to transfer on death of planholder

**7.—(1)** If permitted by the terms of the plan, the planholder of an Ontario home ownership savings plan may make and file with the depository of the plan an election in writing, electing to transfer all assets of the plan on the death of the planholder to the Ontario home ownership savings plan of the planholder's spouse if the spouse survives the planholder.

Transfer to spouse's plan

(2) Subject to subsection (3), where the planholder of an Ontario home ownership savings plan has made and filed an election under subsection (1) that was not revoked by the planholder before his or her death, the depository of the plan shall, upon the death of the deceased planholder,

- (a) transfer all assets of the plan within fifteen months of the death of the deceased planholder to the Ontario home ownership savings plan of which the spouse of the deceased planholder is the planholder; and



- (b) notify the Minister in writing of the transfer and provide to the Minister such information with respect to the transfer as the Minister may require.

(3) No transfer may be made under subsection (2) unless,

No transfer  
to spouse's  
plan

- (a) the spouse is alive at the time of the transfer to the spouse's Ontario home ownership savings plan; and
- (b) the spouse is eligible under this Act to be and is a planholder of an Ontario home ownership savings plan at the time of the transfer.

(4) For the purposes of this Act and the *Income Tax Act*, where assets of the plan of a deceased planholder have been transferred under subsection (2),

Idem  
R.S.O. 1980,  
c. 213

- (a) all such property shall be deemed to form part of the assets of the plan of the spouse from the date of death of the deceased planholder;
- (b) any tax credit allowed under the *Income Tax Act* to a person with respect to any qualifying contribution made by the deceased planholder to the deceased planholder's Ontario home ownership savings plan shall be deemed to be a tax credit allowed to the spouse at the time, in the amount and in respect of the taxation year such tax credit was allowed under that Act to such person, notwithstanding that by operation of this clause the total amount of tax credits allowed and deemed to have been allowed to the spouse in respect of any taxation year exceeds the maximum tax credit allowed under that Act for the taxation year, and the date of the first assessment referred to in subclause 9 (1) (b) (i) shall be, for the purposes of determining the amount of interest that may be payable at any time by the spouse under subsection 9 (1), the date of the first assessment for the taxation year under which the tax credit was allowed to such person;
- (c) the deceased planholder shall be deemed not to have received any assets of the plan; and
- (d) the amount of the transfer shall not be taken into consideration in determining the amount of any tax credit that may be claimed by any person under the *Income Tax Act* with respect to contributions to the spouse's plan.

Deemed  
revocation of  
election

(5) Where no transfer under subsection (2) may be made by reason of the provisions of subsection (3), the deceased planholder shall be deemed to have revoked the election referred to in subsection (1) prior to death.

Multiple  
transfers

(6) For the purposes of clause (4) (b), the qualifying contributions made by the deceased planholder to the deceased planholder's Ontario home ownership savings plan shall be deemed to include all qualifying contributions made by any other deceased planholder to an Ontario home ownership savings plan the assets of which have been transferred under this section to the deceased planholder's Ontario home ownership savings plan.

Replacement  
depository

**8.** An Ontario home ownership savings plan may at any time be revised or amended to provide for the transfer, on behalf of and at the direction of the planholder, of the assets of the plan by the depository to another depository, which may be referred to as a replacement depository, to be held by the replacement depository as assets of an Ontario home ownership savings plan and upon the transfer,

- (a) the amount transferred shall not be deemed to have been received by the planholder;
- (b) the replacement depository shall hold the amount transferred as assets of the Ontario home ownership savings plan of the planholder under an arrangement the terms and conditions of which comply with section 2 and shall assume and fulfil the responsibilities under this Act of the depository of the plan;
- (c) the transfer shall not be considered to be a qualifying contribution to an Ontario home ownership savings plan; and
- (d) the planholder shall not be considered to have entered into more than one Ontario home ownership savings plan by reason only of the transfer.

Tax credit  
recovery

**9.—(1)** Where a planholder under an Ontario home ownership savings plan receives any assets of the plan or the use or benefit of any assets of the plan either directly or indirectly, or is deemed by this Act to have received any assets of the plan, other than for the purpose of purchasing a qualifying eligible home described in subsection 5 (4), the planholder is liable to pay to the Treasurer an amount equal to the aggregate of,

- (a) a tax credit recovery equal to the total amount of all tax credits allowed under the *Income Tax Act* to the planholder or to the planholder's spouse or former spouse in respect of qualifying contributions made by the planholder to the plan; and
- (b) interest at the prescribed rate on the amount of each such tax credit computed from the later of,
- (i) the date of the first assessment under the *Income Tax Act* for the taxation year to which the tax credit applies which allows the tax credit to any person, and
  - (ii) the 30th day of April of the year following the taxation year to which the tax credit applies,

R.S.O. 1980,  
c. 213

to the date of payment by the planholder.

(2) Except in the circumstances described in section 5, where a depository of an Ontario home ownership savings plan pays out or releases any assets of the plan to any person, or the planholder is deemed by this Act to have received any assets of the plan, the depository shall,

Withholding  
by depository

- (a) file with the Minister a return in the prescribed form containing the prescribed information within thirty days of the date of the payment or release of the assets of the plan or the date the planholder is deemed by this Act to have received any assets of the plan, as the case may be;
- (b) deduct and withhold from the assets of the plan and remit to the Minister in the prescribed manner and at the prescribed time, on account of the tax credit recovery and interest payable by the planholder under subsection (1), an amount equal to 25 per cent of the total value of all assets of the plan immediately before the payment or release or on the date the planholder is deemed by this Act to have received any assets of the plan, as the case may be; and
- (c) hold the amount required to be withheld and remitted under clause (b) separate and apart from the depository's own money, assets and estate, in trust for Her Majesty in right of Ontario, until the amount is remitted to the Minister.

Notice of determination of tax credit recovery and interest

(3) Where a planholder is liable to pay an amount under subsection (1), the Minister shall determine the amount of the tax credit recovery and interest payable by the planholder and shall send to the planholder a notice of determination of the tax credit recovery and interest.

Payment of tax credit recovery and interest

(4) The planholder shall, within thirty days from the day of mailing of the notice of determination under subsection (3), pay to the Treasurer any part of the tax credit recovery and interest then remaining unpaid, whether or not an objection to or an appeal from the Minister's determination is outstanding, all amounts received by the Treasurer under this section to be applied firstly to any interest then payable and any balance then remaining to be applied against the tax credit recovery payable.

Refund of overpayment

(5) The Minister shall, on or after mailing the notice of determination under subsection (3), refund any overpayment made on account of the amount payable by the planholder under subsection (1) and shall pay interest at the prescribed rate on such overpayment from the day when the overpayment arose to the day of refunding, unless the amount of the interest calculated is less than one dollar, in which event no interest shall be paid.

Idem

(6) A notice of determination under this section includes any amended notice of determination.

Idem

(7) Where an amount has been deducted, withheld and remitted under subsection (2), the receipt of the Minister therefor is a full and sufficient discharge to the depositary for the payment over of such money and such payment is a full and complete discharge to the depositary making it and for any claim to such payment by any person who claims to be entitled to the funds.

Idem

(8) Where a depositary fails to deduct, withhold and remit an amount as required by subsection (2), the depositary is liable to the Crown for the amount that should have been deducted, withheld and remitted.

Proposal to close plan

**10.**—(1) Where the Minister determines that,

- (a) a home ownership savings plan purporting to be an Ontario home ownership savings plan has failed to comply with the requirements of section 2;
- (b) a contribution made to an Ontario home ownership savings plan was not a qualifying contribution by reason of clause 3 (3) (a), (b) or (d);

- (c) the planholder of an Ontario home ownership savings plan owns or owned at any time an interest in an eligible home;
- (d) the spouse of a planholder of an Ontario home ownership savings plan with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned, at any time when the planholder and the spouse were married, an interest in an eligible home; or
- (e) the assets of the plan are not held in the form of qualified investments,

the Minister may serve on the planholder and the depository of the plan, by ordinary mail or by personal service, a notice of proposal to close the plan, together with written reasons therefor.

(2) Where the Minister has served a proposal under subsection (1), the depository shall not release any assets of the plan to any person without obtaining the prior written consent of the Minister to the release.

Consent to  
release after  
proposal

(3) Where the planholder objects to a proposal served under subsection (1), the planholder may, within sixty days from the date of mailing of the proposal, serve on the Minister by registered mail addressed to the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Objection

(4) Where no notice of objection is served under subsection (3), the Minister may carry out the proposal to close the plan by serving on the planholder and the depository, by ordinary mail or personal service, a notice of closing of the plan.

Closing of  
plan

(5) Where the Minister serves a notice of closing under subsection (4),

Recovery of  
tax credits

- (a) the planholder shall be deemed, for the purposes of section 9, to have received all the assets of the plan on the day of mailing of the notice of closing;
- (b) the depository shall deduct, withhold and remit to the Minister under subsection 9 (2),
  - (i) where the Minister specifies in the notice of closing an amount to be deducted, withheld and remitted, such amount in lieu of the

amount otherwise required under subsection 9 (2), and

(ii) where the Minister does not specify in the notice of closing an amount to be deducted, withheld and remitted, the amount required to be deducted, withheld and remitted under subsection 9 (2); and

(c) where the Minister specifies in the notice of closing an amount to be deducted, withheld and remitted by the depository of the plan, the notice of closing shall be deemed, for the purposes of sections 9 and 12, to be a notice of determination of tax credit recovery and interest sent to the planholder under subsection 9 (3).

Deemed receipt of assets of plan on 1st day of January, 2000

**11.** In the event that a planholder under an Ontario home ownership savings plan has not obtained a release of the assets of the plan under section 5 and completed, on or before the 31st day of December, 1999, the purchase of property that will be a qualifying eligible home, the planholder shall be deemed, for the purposes of section 9, to have received all the assets of the plan on the 1st day of January, 2000.

Tax credit recovery after release of assets of plan

**12.—(1)** Where, after the assets of an Ontario home ownership savings plan have been released under section 5 and used in the purchase of property, the Minister determines that,

- (a) the Ontario home ownership savings plan failed to comply with the requirements of section 2;
- (b) a contribution made to the Ontario home ownership savings plan was not a qualifying contribution by reason of clause 3 (3) (a), (b) or (d);
- (c) the planholder of the Ontario home ownership savings plan owned an interest in an eligible home at any time before the purchase of the property;
- (d) a spouse of the planholder of the Ontario home ownership savings plan with whom the planholder resided at the time of the purchase of the property, or from whom the planholder lived separate and apart for reasons other than marriage breakdown, owned, at any time before the purchase of the property and while the planholder and the spouse were married, an interest in an eligible home; or

(e) the assets of the plan were used in the purchase of property,

(i) that was not a qualifying eligible home, or

(ii) from a person who, at the time of the purchase, did not deal, within the meaning of section 251 of the *Income Tax Act* (Canada), at arm's length with the planholder, for a consideration less than the value of the assets of the plan at the time of the release of the assets of the plan under section 5,

R.S.C. 1952,  
c. 148

the Minister may serve, on the former planholder of the plan, by ordinary mail or by personal service, a notice of determination of tax credit recovery and interest, together with written reasons therefor.

(2) Where a notice of determination of tax credit recovery and interest has been served under subsection (1), the former planholder of the plan shall be deemed, for the purposes of subsections 9 (1), (4) and (6), to have received all of the assets of the plan on the date the assets of the plan were released under section 5 by the depositary thereof and shall be liable to pay to the Treasurer the amount determined under subsection 9 (1).

Idem

(3) Where a planholder or former planholder objects to a notice served under subsection (1) or 9 (3), the planholder or former planholder may, within sixty days from the day of mailing of the notice, serve on the Minister, by registered mail addressed to the Minister, a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Objection

(4) The Minister may accept a notice of objection under this section or section 10 notwithstanding that it was not served in the manner required.

Idem

(5) Upon receipt of a notice of objection served under this section or section 10, the Minister shall, with all due dispatch, reconsider the proposal or determination objected to and confirm, vary or abandon the proposal or determination, and the Minister shall thereupon notify the planholder or former planholder making the objection of his or her action by registered mail.

Reconsideration

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision

Where  
decision final

R.S.O. 1980,  
c. 213

Determi-  
nation of  
question

involves the interpretation of a provision of this Act or the *Income Tax Act*, or involves an issue solely of law.

(7) In any dispute over a decision or action of the Minister under subsection (5), the Minister may, where the dispute involves the interpretation of a provision of this Act or the *Income Tax Act*, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Divisional Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Action to  
collect

**13.—(1)** Upon default of payment by any person of any amount owing by the person to the Treasurer under this Act,

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar nature may be collected, and every such action shall be brought and executed in and by the name of the Minister or the Minister's name of office and may be continued by the Minister's successor in office as if no change had occurred, and shall be tried without a jury; and
- (b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of the person is located or situate, for the amount owing, including interest if applicable, by the person, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and the warrant has the same force and effect as a writ of seizure and sale issued out of the Supreme Court of Ontario.

Idem

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Garnishment  
R.S.O. 1980,  
c. 454

(3) Section 34 of the *Retail Sales Tax Act*, which relates to garnishment, applies with necessary modifications with respect to amounts payable to the Treasurer under this Act.



(4) Where the Minister considers it advisable, the Minister may accept security for the payment of any amount payable under this Act in any form that the Minister considers satisfactory.

Acceptance  
of security

(5) The use of any of the remedies provided by this Act does not bar or affect any of the other remedies herein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of an amount payable under this Act are in addition to any other remedies existing at law.

Idem

**14.**—(1) Every depository under this Act shall keep the prescribed records at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or at its place of business in Ontario, or at such other place of business as is designated by the Minister in respect of any particular depository, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Duty to keep  
records

R.S.O. 1980,  
c. 97

(2) Where the depository has failed to keep adequate records for the purposes of this Act, the Minister may require the depository to keep such records as may be specified by the Minister.

Failure to  
keep records

(3) Every depository required by this section to keep records shall, until permission for their disposal is given by the Minister, retain each such record and every account and voucher necessary to verify the information in each such record.

Retention of  
records

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

Audit

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of any tax credit paid or payable under the *Income Tax Act* in connection with this Act;

R.S.O. 1980,  
c. 213

(b) examine any property, process or matter, an examination of which may, in his or her opinion, assist the person in determining the accuracy of any application required by this Act or ascertaining the information that is or should be in the books and

R.S.O. 1980,  
c. 213

records or in the application, or the amount of any tax credit under the *Income Tax Act* in connection with this Act; and

- (c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require the person to attend at the premises or place with him or her.

Demand for  
information

(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any depositary or from any officer, director or agent thereof, or from any other person,

- (a) any information or additional information or any required or prescribed form; or
- (b) production, or production on oath or affirmation, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated in the letter or demand.

Copies

(3) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative value as the original document would have had if it had been proven in the ordinary manner.

Duty to  
comply

(4) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do.

Adminis-  
tration of  
oaths

(5) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations or affirmations for the purpose of or incidental to the administration or enforcement

of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

**16.** Every person employed directly or indirectly in the administration or enforcement of this Act or the *Income Tax Act*, or in the development and evaluation of tax policy for the Government of Ontario, shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

Confidentiality  
R.S.O. 1980,  
c. 213

- (a) as may be required in connection with the administration or enforcement of this Act, the *Income Tax Act* or any other Act administered by the Minister or the *Income Tax Act* (Canada) or the regulations under any of them;
- (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
- (c) to his or her counsel; or
- (d) with the consent of the person to whom the information or material relates.

R.S.C. 1952,  
c. 148

**17.—(1)** Any person who contravenes any provision of this Act or the regulations is guilty of an offence and, upon conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$2,000.

Offences

(2) Every person who,

False  
statements

- (a) makes, participates in, assents to or acquiesces in the making of a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to disclose any material fact the omission of which makes the statement false or misleading;
- (b) makes, assents to, participates in or acquiesces in the making of false or misleading entries, or omits to, or assents to or participates or acquiesces in the omission of entering a material particular, in rec-

ords required to be maintained under this Act or the regulations;

R.S.O. 1980,  
c. 213

- (c) knowingly converts to his or her own use a payment of a tax credit under the *Income Tax Act* in respect of a contribution to an Ontario home ownership savings plan to which he or she was not entitled; or
- (d) conspires with any person to commit an offence described in clause (a), (b) or (c),

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$20,000.

Exception

(3) No person is guilty of an offence under clause (2) (a) or (b) if he or she did not know, and in the exercise of due diligence could not have known, that the statement or entry was false or misleading or the omission makes a statement or record false or misleading.

Idem

(4) Subsections 49 (1), (2), (4), (5), (6), (7), (9) and (11) of the *Income Tax Act* apply with necessary modifications for the purposes of this Act.

Limitation

**18.** Proceedings to enforce any provision of this Act with respect to an Ontario home ownership savings plan may be commenced not later than six years after,

- (a) where the assets of the plan have been released under section 5, the date of the release; and
- (b) where the planholder of the plan receives any assets of the plan or is deemed by this Act to have received any assets of the plan, the date when the assets of the plan are received or deemed to have been received.

Regulations

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

- (a) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (b) prescribing any matter required by this Act to be prescribed by the regulations;

- (c) prescribing rates of interest for the purposes of this Act or a formula for computing the rates and the method of calculating the interest;
- (d) increasing or decreasing the percentage referred to in subsection 9 (2);
- (e) prescribing forms and providing for their use;
- (f) prescribing information to be obtained from planholders by depositaries in connection with or for the purposes of this Act;
- (g) requiring any person to make information returns respecting any class of information required by the Minister in the administration of this Act or in determining compliance with this Act;
- (h) providing for the review and approval of specimen Ontario home ownership savings plans.

(2) A regulation is, if it so provides, effective with reference to a period before it was filed. May be retroactive

**20.** This Act comes into force on the earlier of, Commence-  
ment

- (a) the day on which it receives Royal Assent; or
- (b) the 1st day of September, 1988.

**21.** The short title of this Act is the *Ontario Home Ownership Savings Plan Act, 1988*. Short title









# Bill 126

## **An Act to assist Ontario Residents to save for the purchase of a First Home**

The Hon. B. Grandmaître  
*Minister of Revenue*

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*1st Reading*      May 2nd, 1988  
*2nd Reading*     June 2nd, 1988  
*3rd Reading*  
*Royal Assent*

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

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## EXPLANATORY NOTES

The purpose of the Bill, together with amendments that will be proposed to the *Income Tax Act*, is to implement the proposal contained in the Treasurer's Budget of April 20, 1988, to assist eligible Ontario residents to save for the purchase of a first home by allowing refundable income tax credits for qualifying contributions made to an Ontario home ownership savings plan. The principal features of the Bill are as follows:

1. An individual, who is resident in Ontario and eighteen or more years of age, and his or her spouse if married, may each open one Ontario home ownership savings plan with a participating financial institution (a depository), if neither has previously owned an eligible home. Each may make an annual contribution of up to \$2,000 to his or her plan in five consecutive years, commencing with the year in which the plan is opened, for the purpose of saving for the purchase of a qualifying eligible home by the end of 1999.
2. Amendments, to be proposed in a separate Bill to amend the *Income Tax Act*, will permit the claiming of a refundable tax credit by an eligible individual, or by his or her spouse if married, in respect of qualifying contributions made by them to the Ontario home ownership savings plans, if their income is below the maximum level proposed in the Budget and they otherwise qualify.
3. For the purposes of this program, an eligible home includes a detached and semi-detached house, a townhouse, shares of a co-operative housing corporation, a mobile home suitable for permanent residency, a condominium unit and a residential duplex, triplex or fourplex.
4. When a planholder enters into an agreement to purchase a qualifying eligible home, the planholder may apply to the depository of the plan for release of the funds in the plan to his or her solicitor for use in completing the purchase. No tax credits are repayable where the planholder has complied with the provisions of the Act and has used the assets of the plan to purchase a qualifying eligible home by the end of 1999.
5. When any assets of the plan are released or deemed to be released for any purpose other than the purchase of a qualifying eligible home, all tax credits allowed to the planholder, or to his or her spouse, with respect to qualifying contributions made by the planholder to the plan, are repayable to the Treasurer, together with interest. The depository of the plan will be required to withhold and remit 25 per cent of the value of the plan to the Minister of Revenue on account of the amount payable by the planholder. The Minister will calculate the amount payable by the planholder and make any refund to or collect any balance payable from the planholder, as applicable.
6. An Ontario home ownership savings plan will terminate on the death of the planholder; but the planholder may elect that on his or her death the assets of the plan will be transferred to the plan of the spouse, if the spouse is otherwise eligible and has an Ontario home ownership savings plan.
7. The assets of an Ontario home ownership savings plan must be kept in qualified investments which are deposits with the Province of Ontario Savings Office, or with another depository if they are insured by the Canadian Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation, which are payable on demand or, if having a fixed term, are redeemable at the option of the planholder prior to maturity.
8. The Minister may close an Ontario home ownership savings plan and recover tax credits previously allowed where it is determined that the plan fails to comply with the required provisions or the planholder is not eligible under the Act. The Minister may also recover tax credits for similar reasons after the plan-

holder has purchased a home or if the planholder uses the assets of the plan to purchase property that is not a qualifying eligible home.

9. Administrative provisions relating to audits, requests for information, offences, the keeping of adequate records and legal action to recover tax credits are similar to those contained in other statutes administered by the Minister of Revenue, and provisions relating to the filing of objections and applications to the Supreme Court are similar to those contained in the *Employee Share Ownership Plan Act, 1988*.



Bill 126

1988

**An Act to assist Ontario Residents  
to save for the purchase of a First Home**

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	21. Short title

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,

Definitions

“assets of the plan”, in respect of a home ownership savings plan, means all contributions made into the plan, any transfers made into the plan under section 7 and all income earned therefrom and on assets substituted therefor, whether or not the assets of the plan are in the form of qualified investments;

“contribution” means an amount of money paid by an individual to a depository as a payment into a home ownership savings plan;

“depository” means a branch or office in Ontario of,

(a) the Province of Ontario Savings Office, or

- (b) a financial institution that is a member of the Canada Deposit Insurance Corporation or of the Ontario Share and Deposit Insurance Corporation;

“home ownership savings plan” means an arrangement entered into by an individual and a depositary under which payment is made by the individual to the depositary of an amount of money as a payment under the arrangement to be used, invested or otherwise applied by the depositary for the purpose of providing to the individual as the planholder under the arrangement an amount of money to be used by the individual for the purchase by him or her of a qualifying eligible home;

R.S.C. 1952,  
c. 148

“individual” means a person other than either a trust referred to in subdivision k of Division B of Part I of the *Income Tax Act* (Canada) or a corporation;

“Minister” means the Minister of Revenue;

“Ontario home ownership savings plan” means a home ownership savings plan that complies with section 2;

“planholder”, in respect of a home ownership savings plan, means an individual eighteen or more years of age to whom, under the plan, a single payment is agreed to be paid, but does not include an individual to whom under a plan a single payment is agreed to be paid as a consequence of the death of another individual;

“prescribed” means prescribed by the regulations;

“qualified investment” means an investment that is a qualified investment for the purposes of section 4;

“qualifying contribution” has the meaning given to that expression by section 3;

“qualifying eligible home” has the meaning given to that expression by subsection 5 (4);

“regulations” means the regulations made under this Act;

“solicitor” means a member of the Law Society of Upper Canada who is entitled to practise law in Ontario as a barrister and solicitor and who maintains all insurance coverage that may be required by the Law Society of Upper Canada from time to time in connection with and for the purposes of carrying on the private practice of law in Ontario;

“spouse” means an individual to whom an individual is married;

“tax credit” means an Ontario home ownership savings plan tax credit allowed to an individual or the individual’s spouse or former spouse under the *Income Tax Act* with respect to the amount of qualifying contributions made by the individual to an Ontario home ownership savings plan;

R.S.O. 1980,  
c. 213

“tax credit recovery” means the amount determined under subsection 9 (1);

“taxation year” has the meaning given to that expression by the *Income Tax Act*;

“Treasurer” means the Treasurer of Ontario.

(2) For the purposes of this Act, an eligible home is,

Eligible  
home

- (a) a detached house;
- (b) a semi-detached house;
- (c) a townhouse;
- (d) a share or shares of the capital stock of a co-operative corporation if the share or shares are acquired for the purpose of acquiring the right to inhabit a housing unit owned by the corporation;
- (e) a mobile home that complies with the prescribed standards and is suitable for year round permanent residential occupation;
- (f) a condominium unit;
- (g) a residential dwelling that is a duplex, triplex or a fourplex; or
- (h) any other residential property as may be prescribed.

(3) For the purposes of this Act, an individual shall not be considered to own an eligible home unless,

Ownership of  
eligible home

- (a) in the case of an eligible home referred to in clause (2) (a), (b), (c) or (g), the individual has an ownership interest in the eligible home and,

R.S.O. 1980,  
c. 84

- (i) owns a freehold estate in the land subjacent to the eligible home other than as a mortgagee, or
  - (ii) is a lessee of the land subjacent to the eligible home;
- (b) in the case of an eligible home that is a condominium unit, the individual is an owner of the unit and common elements within the meaning of the *Condominium Act*;
- (c) in the case of an eligible home in the form of a share or shares of the capital stock of a co-operative corporation,
- (i) the individual has acquired, jointly with another person or otherwise, the share or shares to enable the individual to acquire a right to occupy a housing unit owned by the co-operative corporation,
  - (ii) the individual and the co-operative corporation have entered into an enforceable occupancy agreement in respect of the housing unit, and
  - (iii) the individual is entitled to vacant possession of the housing unit under the terms of the occupancy agreement;
- (d) in the case of an eligible home that is a mobile home suitable for year-round permanent residential occupation,
- (i) the individual, either alone or jointly with another person, has completed the purchase of the mobile home,
  - (ii) the mobile home is situated on a foundation, which meets the prescribed standards, on the land where it is to be inhabited, and
  - (iii) the land is owned by the individual, jointly with another person or otherwise, or is occupied by the individual under a licence or lease that permits the individual to locate the mobile home on the land and to occupy it as a year-round residence; and



- (e) in the case of an eligible home of a prescribed class or nature, or owned by a member of a prescribed class of persons, the prescribed terms and conditions are met.

2. For the purposes of this Act and the *Income Tax Act*, a home ownership savings plan entered into by a planholder and a depository after the 31st day of August, 1988, and before the 1st day of January, 1994, that complies with the following terms and conditions is an Ontario home ownership savings plan:

Terms of  
Ontario  
home  
ownership  
savings plan  
R.S.O. 1980,  
c. 213

1. The terms of the plan do not permit any payment to the planholder of any asset of the plan except by way of,
  - i. a single payment of all of the assets of the plan to a solicitor designated by the planholder to hold the assets of the plan as trust property in trust for the planholder and the Crown jointly and to legally represent the planholder in the purchase by the planholder of a qualifying eligible home, or
  - ii. a single payment of all the assets of the plan, less the amount to be withheld by the depository under section 9 or the amount, if any, directed by the Minister under subsection 5 (5), to the planholder or to the legal personal representative of the planholder upon the death of the planholder.
2. The terms of the plan require the depository to withhold and remit to the Minister the percentage of the total value of the assets of the plan required under section 9 on any payment of assets of the plan to the planholder or to the legal personal representative of the planholder upon the death of the planholder.
3. The terms of the plan provide that the depository will accept repayment of assets into the plan from a solicitor to whom assets of the plan were paid.
4. The terms of the plan provide that the payment to the planholder is not capable in whole or in part of surrender, assignment or transfer except as permitted by an election under section 7.

R.S.C. 1952,  
c. 148

5. The planholder is at least eighteen years of age and a resident of Ontario at the time of entering into the plan.
6. The planholder has been assigned a Social Insurance Number referred to in section 237 of the *Income Tax Act* (Canada) and has provided that number and the Social Insurance Number of the planholder's spouse, if the planholder is married, to the depositary at the time of entering into the plan.
7. The planholder is not and has never previously been a planholder under any other Ontario home ownership savings plan.
8. The planholder has never owned an eligible home anywhere in the world.
9. No spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned an eligible home anywhere in the world.
10. The terms of the plan prohibit any amendment to the terms of the plan other than the addition or deletion of the right of the planholder to make an election described in subsection 7 (1).
11. The terms of the plan provide that on the death of the planholder, the depositary shall transfer or distribute all assets of the plan, less any amount required by section 9 to be withheld and remitted to the Minister, in accordance with this Act.
12. The terms of the plan prohibit the holding of the assets of the plan in any form other than qualified investments.
13. The plan includes a provision denying the depositary any right of set-off as regards the assets of the plan in connection with any debt or obligation to the depositary that the planholder under the plan owes or may thereafter owe.
14. The terms of the plan provide that no loan or advance may be made to the planholder or to any person with whom the planholder does not deal at arm's length, within the meaning of section 251 of

the *Income Tax Act* (Canada), if a condition of such loan or advance is the existence of the plan. R.S.C. 1952, c. 148

15. The terms of the plan include the acknowledgment by the planholder that he or she understands that the amount of a tax credit, if any, available under the *Income Tax Act* with respect to contributions made to the plan in any year depend on the planholder's level of income for that year and that the provisions of this Act apply notwithstanding that the planholder may not be entitled to a tax credit in any year. R.S.O. 1980, c. 213

16. The terms of the plan provide that any receipt,

- i. for a contribution to the plan, issued by the depositary after the date on which the planholder has received, or has been deemed by this Act to have received, any assets of the plan or the use or benefit of any assets of the plan, other than in accordance with section 5, or
- ii. for a contribution made to the plan after the 31st day of December of the fourth calendar year ending after the end of the calendar year in which the plan was entered into by the depositary and the planholder,

shall be in a form substantially different from the form of receipt required to be filed with the Minister by a planholder claiming a tax credit under the *Income Tax Act* with respect to contributions made to an Ontario home ownership savings plan. R.S.O. 1980, c. 213

17. The terms of the plan contain the consent of the planholder to the release to the Minister of all information obtained by the depositary with respect to the plan, the planholder and the planholder's spouse, if any, for the purposes of this Act and the operation of the plan.

18. The terms of the plan comply with any additional prescribed conditions or requirements.

3.—(1) The total amount of a planholder's qualifying contributions to an Ontario home ownership savings plan for a calendar year for the purposes of this Act and the *Income Tax Act* shall not exceed the lesser of, Maximum annual qualifying contributions R.S.O. 1980, c. 213

- (a) the total amount of qualifying contributions made by the planholder to the planholder's Ontario home ownership savings plan during the calendar year; and
- (b) \$2,000.

Time limit  
for qualifying  
contributions

(2) No contribution to an Ontario home ownership savings plan shall be a qualifying contribution unless it is made on or before the earlier of,

- (a) the 31st day of December, 1997; and
- (b) the 31st day of December of the fourth calendar year ending after the end of the calendar year in which the plan was entered into by the depositary and the planholder.

Idem

(3) No contribution to an Ontario home ownership savings plan shall be a qualifying contribution for the purposes of this Act and the *Income Tax Act* where,

- (a) the planholder has received or has been deemed by this Act to have received, other than by reason of death, any assets of the plan or the benefit or use of any assets of the plan during the year in which the contribution is made, otherwise than for the purpose of purchasing a qualifying eligible home described in subsection 5 (4);
- (b) the contribution has been made at a time when the planholder or a spouse of the planholder with whom the planholder resides, or from whom the planholder is separated for reasons other than marriage breakdown,
  - (i) is the owner of an eligible home, or
  - (ii) is a partner in a partnership that owns property that would be an eligible home of the partner if the property was owned by the partner;
- (c) the planholder or a spouse of the planholder with whom the planholder resides at the end of the calendar year in which the contribution is made, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned at any time an interest in an eligible

home, other than an interest in the qualifying eligible home referred to in clause (a); or

- (d) the planholder does not reside in Ontario at the end of the taxation year in which the contribution is made.

**4.—(1)** A depository of an Ontario home ownership savings plan shall hold all assets of the plan only in qualified investments.

Duty to hold in qualified investments

(2) For the purposes of this Act, a qualified investment is,

Qualified investments defined

- (a) money that is legal tender in Canada;
- (b) a deposit that is,
- (i) with a branch of the Province of Ontario Savings Office or insured by the Canadian Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation, and
- (ii) repayable on demand or, where the deposit has a fixed maturity date, is redeemable at the option of the planholder prior to maturity; or
- (c) any other type of investment prescribed by the regulations.

**5.—(1)** Where a planholder has entered into a written agreement to purchase an eligible home that will be a qualifying eligible home described in subsection (4) and requests release from the planholder's Ontario home ownership savings plan of assets of the plan to be applied towards the purchase price of the eligible home, the following rules apply:

Purchase of qualifying eligible home

1. The planholder shall designate a solicitor for the purposes of this Act in the prescribed manner.
2. The planholder shall make application to the depository of the Ontario home ownership savings plan in the prescribed manner and in the prescribed form for release of the assets of the plan.
3. The depository shall release, not earlier than thirty days before the date set out in the agreement of purchase and sale as the date of closing of the purchase of the eligible home, the assets of the plan as trust property to the solicitor designated by the

planholder and shall file with the Minister at the prescribed time a return in the prescribed form notifying the Minister of the particulars of the release.

4. The solicitor designated by the planholder shall hold the assets of the plan released by the depositary separate and apart from the solicitor's own money, assets and estate, in trust for the benefit of the planholder and Her Majesty in right of Ontario, jointly, and shall deal with the trust property only as provided in paragraph 5 or 6, as applicable.
5. In the event that,
  - i. the agreement of purchase and sale of the eligible home is not completed within the prescribed time after release by the depositary of the assets of the plan to the solicitor in trust,
  - ii. the solicitor declines to accept receipt of the assets of the plan in trust, or declines to assume or fulfil the duties required of the solicitor under this Act, or
  - iii. the solicitor declines to or ceases to represent the planholder in the purchase by the planholder of the eligible home,

the solicitor shall forthwith remit the entire assets of the plan to the depositary in the prescribed manner.

6. Where the agreement of purchase and sale of the eligible home is completed within the prescribed time, the solicitor may release the assets of the plan to the vendor under the agreement of purchase and sale or to the planholder as part or all of the consideration payable by the planholder for the purchase of the eligible home.
7. Upon completion of the purchase of the eligible home by the planholder and the disbursement by the solicitor of the assets of the plan, the solicitor shall file with the Minister proof acceptable to the Minister of the completion of the purchase of the eligible home and the fulfilment by the solicitor of his or her duties under this Act.

Idem

(2) For the purposes of paragraph 1 of section 2, no payment shall be deemed to have been made by a depositary of an Ontario home ownership savings plan to a solicitor where

the solicitor has remitted the assets of the plan received from the depository to the depository under paragraph 5 of subsection (1).

(3) The interest of Her Majesty in right of Ontario in the assets of the plan shall be deemed to be released only where the solicitor has paid over the assets of the plan in accordance with paragraph 6 of subsection (1) on the purchase by the planholder of an eligible home that will be a qualifying eligible home.

Release of  
Crown's  
interest

(4) For the purposes of this Act, an eligible home is a qualifying eligible home only where,

Qualifying  
eligible home  
defined

- (a) the eligible home is located in Ontario and is suitable for use as a year-round dwelling place, or, in the case of an eligible home that is in the form of a share or shares in the capital stock of a co-operative corporation, the housing unit is located in Ontario and is suitable for use as a year-round dwelling place;
- (b) the eligible home is the first eligible home anywhere owned, jointly with another person or otherwise, by the planholder; and
- (c) the eligible home is acquired as the principal residence of the planholder to be ordinarily inhabited by the planholder or by the planholder's spouse or an individual who was the planholder's spouse at the time of acquisition by the planholder of the eligible home, or by both of them, for a period of at least thirty consecutive days within two years of the first day of ownership by the planholder.

(5) Where the assets of the plan have not been released under subsection (1), the Minister may, if the Minister is satisfied that the planholder has purchased property that is or may become a qualifying eligible home under subsection (4),

Minister's  
discretion to  
release

- (a) consent to the release of the assets of the plan by the depository to the planholder;
- (b) in the case of an agreement to purchase a proposed condominium unit that may become a qualifying eligible home, consent to the release of the assets of the plan to the planholder, but the date of release of the assets of the plan shall be not more than thirty days before the date when a deed or transfer of the unit acceptable for registration is to be deliv-

ered to the planholder unless the Minister is satisfied that,

- (i) the planholder is required, under the agreement to purchase the proposed condominium unit, to take possession of or to occupy the proposed condominium unit before a deed or transfer of the unit acceptable for registration is delivered to the planholder, and
- (ii) the total amount the planholder has paid or is required to pay forthwith to the vendor of the proposed condominium unit under the agreement is equal to or greater than the value of the assets of the plan;
- (c) direct that no amount, or an amount not in excess of the amount otherwise determined under subsection 9 (2), be deducted, withheld and remitted to the Minister by the depository of the plan under subsection 9 (2); and
- (d) impose such conditions on the release as the Minister, in his or her discretion, considers necessary to ensure compliance with this Act and the regulations.

Refund

(6) Where an amount has been deducted, withheld and remitted under clause (5) (c), the Minister may refund the amount to the planholder, together with interest on the amount at the prescribed rate, where the Minister is satisfied that the property purchased by the planholder is or will be a qualifying eligible home under subsection (4).

Proposed  
condominium  
unit

(7) For the purposes of subsection 12 (1), where the assets of an Ontario home ownership savings plan have been released under subsection (5) to a planholder who has entered into an agreement to purchase a proposed condominium unit, the planholder shall be deemed to have acquired ownership of the proposed condominium unit and the proposed condominium unit shall be deemed to be an eligible home on the date the planholder is entitled to immediate vacant possession of the proposed condominium unit.

Death of  
planholder

6. Subject to section 7, in the event of the death of a planholder of an Ontario home ownership savings plan,

- (a) the planholder shall be deemed to have received all of the assets of the plan immediately before his or her death; and



- (b) the depository of the Ontario home ownership savings plan shall pay over the assets of the plan, less the amount required to be withheld and remitted to the Minister under section 9, to the legal personal representative of the deceased planholder or, where the planholder had previously designated in writing a person entitled to receipt of the assets of the plan on the death of the planholder, to such person.

7.—(1) If permitted by the terms of the plan, the planholder of an Ontario home ownership savings plan may make and file with the depository of the plan an election in writing, electing to transfer all assets of the plan on the death of the planholder to the Ontario home ownership savings plan of the planholder's spouse if the spouse survives the planholder.

Election to transfer on death of planholder

(2) Subject to subsection (3), where the planholder of an Ontario home ownership savings plan has made and filed an election under subsection (1) that was not revoked by the planholder before his or her death, the depository of the plan shall, upon the death of the deceased planholder,

Transfer to spouse's plan

- (a) transfer all assets of the plan within fifteen months of the death of the deceased planholder to the Ontario home ownership savings plan of which the spouse of the deceased planholder is the planholder; and
- (b) notify the Minister in writing of the transfer and provide to the Minister such information with respect to the transfer as the Minister may require.

(3) No transfer may be made under subsection (2) unless,

No transfer to spouse's plan

- (a) the spouse is alive at the time of the transfer to the spouse's Ontario home ownership savings plan; and
- (b) the spouse is eligible under this Act to be and is a planholder of an Ontario home ownership savings plan at the time of the transfer.

(4) For the purposes of this Act and the *Income Tax Act*, where assets of the plan of a deceased planholder have been transferred under subsection (2),

Idem  
R.S.O. 1980,  
c. 213

- (a) all such property shall be deemed to form part of the assets of the plan of the spouse from the date of death of the deceased planholder;

- (b) any tax credit allowed under the *Income Tax Act* to a person with respect to any qualifying contribution made by the deceased planholder to the deceased planholder's Ontario home ownership savings plan shall be deemed to be a tax credit allowed to the spouse at the time, in the amount and in respect of the taxation year such tax credit was allowed under that Act to such person, notwithstanding that by operation of this clause the total amount of tax credits allowed and deemed to have been allowed to the spouse in respect of any taxation year exceeds the maximum tax credit allowed under that Act for the taxation year, and the date of the first assessment referred to in subclause 9 (1) (b) (i) shall be, for the purposes of determining the amount of interest that may be payable at any time by the spouse under subsection 9 (1), the date of the first assessment for the taxation year under which the tax credit was allowed to such person;
- (c) the deceased planholder shall be deemed not to have received any assets of the plan; and
- (d) the amount of the transfer shall not be taken into consideration in determining the amount of any tax credit that may be claimed by any person under the *Income Tax Act* with respect to contributions to the spouse's plan.

Deemed  
revocation of  
election

(5) Where no transfer under subsection (2) may be made by reason of the provisions of subsection (3), the deceased planholder shall be deemed to have revoked the election referred to in subsection (1) prior to death.

Multiple  
transfers

(6) For the purposes of clause (4) (b), the qualifying contributions made by the deceased planholder to the deceased planholder's Ontario home ownership savings plan shall be deemed to include all qualifying contributions made by any other deceased planholder to an Ontario home ownership savings plan the assets of which have been transferred under this section to the deceased planholder's Ontario home ownership savings plan.

Replacement  
depository

**8.** An Ontario home ownership savings plan may at any time be revised or amended to provide for the transfer, on behalf of and at the direction of the planholder, of the assets of the plan by the depository to another depository, which may be referred to as a replacement depository, to be held by the replacement depository as assets of an Ontario home ownership savings plan and upon the transfer,

- (a) the amount transferred shall not be deemed to have been received by the planholder;
- (b) the replacement depositary shall hold the amount transferred as assets of the Ontario home ownership savings plan of the planholder under an arrangement the terms and conditions of which comply with section 2 and shall assume and fulfil the responsibilities under this Act of the depositary of the plan;
- (c) the transfer shall not be considered to be a qualifying contribution to an Ontario home ownership savings plan; and
- (d) the planholder shall not be considered to have entered into more than one Ontario home ownership savings plan by reason only of the transfer.

9.—(1) Where a planholder under an Ontario home ownership savings plan receives any assets of the plan or the use or benefit of any assets of the plan either directly or indirectly, or is deemed by this Act to have received any assets of the plan, other than for the purpose of purchasing a qualifying eligible home described in subsection 5 (4), the planholder is liable to pay to the Treasurer an amount equal to the aggregate of,

Tax credit  
recovery

- (a) a tax credit recovery equal to the total amount of all tax credits allowed under the *Income Tax Act* to the planholder or to the planholder's spouse or former spouse in respect of qualifying contributions made by the planholder to the plan; and
- (b) interest at the prescribed rate on the amount of each such tax credit computed from the later of,
  - (i) the date of the first assessment under the *Income Tax Act* for the taxation year to which the tax credit applies which allows the tax credit to any person, and
  - (ii) the 30th day of April of the year following the taxation year to which the tax credit applies,

R.S.O. 1980,  
c. 213

to the date of payment by the planholder.

(2) Except in the circumstances described in section 5, where a depositary of an Ontario home ownership savings plan pays out or releases any assets of the plan to any person,

Withholding  
by depositary

or the planholder is deemed by this Act to have received any assets of the plan, the depositary shall,

- (a) file with the Minister a return in the prescribed form containing the prescribed information within thirty days of the date of the payment or release of the assets of the plan or the date the planholder is deemed by this Act to have received any assets of the plan, as the case may be;
- (b) deduct and withhold from the assets of the plan and remit to the Minister in the prescribed manner and at the prescribed time, on account of the tax credit recovery and interest payable by the planholder under subsection (1), an amount equal to 25 per cent of the total value of all assets of the plan immediately before the payment or release or on the date the planholder is deemed by this Act to have received any assets of the plan, as the case may be; and
- (c) hold the amount required to be withheld and remitted under clause (b) separate and apart from the depositary's own money, assets and estate, in trust for Her Majesty in right of Ontario, until the amount is remitted to the Minister.

Notice of determination of tax credit recovery and interest

(3) Where a planholder is liable to pay an amount under subsection (1), the Minister shall determine the amount of the tax credit recovery and interest payable by the planholder and shall send to the planholder a notice of determination of the tax credit recovery and interest.

Payment of tax credit recovery and interest

(4) The planholder shall, within thirty days from the day of mailing of the notice of determination under subsection (3), pay to the Treasurer any part of the tax credit recovery and interest then remaining unpaid, whether or not an objection to or an appeal from the Minister's determination is outstanding, all amounts received by the Treasurer under this section to be applied firstly to any interest then payable and any balance then remaining to be applied against the tax credit recovery payable.

Refund of overpayment

(5) The Minister shall, on or after mailing the notice of determination under subsection (3), refund any overpayment made on account of the amount payable by the planholder under subsection (1) and shall pay interest at the prescribed rate on such overpayment from the day when the overpayment arose to the day of refunding, unless the amount of the

interest calculated is less than one dollar, in which event no interest shall be paid.

(6) A notice of determination under this section includes any amended notice of determination. Idem

(7) Where an amount has been deducted, withheld and remitted under subsection (2), the receipt of the Minister therefor is a full and sufficient discharge to the depositary for the payment over of such money and such payment is a full and complete discharge to the depositary making it and for any claim to such payment by any person who claims to be entitled to the funds. Idem

(8) Where a depositary fails to deduct, withhold and remit an amount as required by subsection (2), the depositary is liable to the Crown for the amount that should have been deducted, withheld and remitted. Idem

(9) The terms of an Ontario home ownership savings plan may permit a depositary, on a transfer, payment or release of the assets of the plan, to deduct any fees or charges payable by the planholder to the depositary in connection with the operation or administration of the plan from the assets of the plan remaining after the deduction of any amount required to be deducted under subsection (2). Administration fee

**10.—**(1) Where the Minister determines that, Proposal to close plan

- (a) a home ownership savings plan purporting to be an Ontario home ownership savings plan has failed to comply with the requirements of section 2;
- (b) a contribution made to an Ontario home ownership savings plan was not a qualifying contribution by reason of clause 3 (3) (a), (b) or (d);
- (c) the planholder of an Ontario home ownership savings plan owns or owned at any time an interest in an eligible home;
- (d) the spouse of a planholder of an Ontario home ownership savings plan with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned, at any time when the planholder and the spouse were married, an interest in an eligible home; or

- (e) the assets of the plan are not held in the form of qualified investments,

the Minister may serve on the planholder and the depository of the plan, by ordinary mail or by personal service, a notice of proposal to close the plan, together with written reasons therefor.

Consent to  
release after  
proposal

(2) Where the Minister has served a proposal under subsection (1), the depository shall not release any assets of the plan to any person without obtaining the prior written consent of the Minister to the release.

Objection

(3) Where the planholder objects to a proposal served under subsection (1), the planholder may, within sixty days from the date of mailing of the proposal, serve on the Minister by registered mail addressed to the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Closing of  
plan

(4) Where no notice of objection is served under subsection (3), the Minister may carry out the proposal to close the plan by serving on the planholder and the depository, by ordinary mail or personal service, a notice of closing of the plan.

Recovery of  
tax credits

(5) Where the Minister serves a notice of closing under subsection (4),

- (a) the planholder shall be deemed, for the purposes of section 9, to have received all the assets of the plan on the day of mailing of the notice of closing;
- (b) the depository shall deduct, withhold and remit to the Minister under subsection 9 (2),
- (i) where the Minister specifies in the notice of closing an amount to be deducted, withheld and remitted, such amount in lieu of the amount otherwise required under subsection 9 (2), and
- (ii) where the Minister does not specify in the notice of closing an amount to be deducted, withheld and remitted, the amount required to be deducted, withheld and remitted under subsection 9 (2); and
- (c) where the Minister specifies in the notice of closing an amount to be deducted, withheld and remitted by the depository of the plan, the notice of closing

shall be deemed, for the purposes of sections 9 and 12, to be a notice of determination of tax credit recovery and interest sent to the planholder under subsection 9 (3).

**11.** In the event that a planholder under an Ontario home ownership savings plan has not obtained a release of the assets of the plan under section 5 and completed, on or before the 31st day of December, 1999, the purchase of property that will be a qualifying eligible home, the planholder shall be deemed, for the purposes of section 9, to have received all the assets of the plan on the 1st day of January, 2000.

Deemed receipt of assets of plan on 1st day of January, 2000

**12.—(1)** Where, after the assets of an Ontario home ownership savings plan have been released under section 5 and used in the purchase of property, the Minister determines that,

Tax credit recovery after release of assets of plan

- (a) the Ontario home ownership savings plan failed to comply with the requirements of section 2;
- (b) a contribution made to the Ontario home ownership savings plan was not a qualifying contribution by reason of clause 3 (3) (a), (b) or (d);
- (c) the planholder of the Ontario home ownership savings plan owned an interest in an eligible home at any time before the purchase of the property;
- (d) a spouse of the planholder of the Ontario home ownership savings plan with whom the planholder resided at the time of the purchase of the property, or from whom the planholder lived separate and apart for reasons other than marriage breakdown, owned, at any time before the purchase of the property and while the planholder and the spouse were married, an interest in an eligible home; or
- (e) the assets of the plan were used in the purchase of property,
  - (i) that was not a qualifying eligible home, or
  - (ii) from a person who, at the time of the purchase, did not deal, within the meaning of section 251 of the *Income Tax Act* (Canada), at arm's length with the planholder, for a consideration less than the value of the assets of the plan at the time of the release of the assets of the plan under section 5,

R.S.C. 1952,  
c. 148

the Minister may serve, on the former planholder of the plan, by ordinary mail or by personal service, a notice of determination of tax credit recovery and interest, together with written reasons therefor.

Idem

(2) Where a notice of determination of tax credit recovery and interest has been served under subsection (1), the former planholder of the plan shall be deemed, for the purposes of subsections 9 (1), (4) and (6), to have received all of the assets of the plan on the date the assets of the plan were released under section 5 by the depositary thereof and shall be liable to pay to the Treasurer the amount determined under subsection 9 (1).

Objection

(3) Where a planholder or former planholder objects to a notice served under subsection (1) or 9 (3), the planholder or former planholder may, within sixty days from the day of mailing of the notice, serve on the Minister, by registered mail addressed to the Minister, a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Idem

(4) The Minister may accept a notice of objection under this section or section 10 notwithstanding that it was not served in the manner required.

Reconsideration

(5) Upon receipt of a notice of objection served under this section or section 10, the Minister shall, with all due dispatch, reconsider the proposal or determination objected to and confirm, vary or abandon the proposal or determination, and the Minister shall thereupon notify the planholder or former planholder making the objection of his or her action by registered mail.

Where decision final

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act or the *Income Tax Act*, or involves an issue solely of law.

R.S.O. 1980,  
c. 213

Determination of question

(7) In any dispute over a decision or action of the Minister under subsection (5), the Minister may, where the dispute involves the interpretation of a provision of this Act or the *Income Tax Act*, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Divisional Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts



have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

**13.—(1)** Upon default of payment by any person of any amount owing by the person to the Treasurer under this Act, Action to collect

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar nature may be collected, and every such action shall be brought and executed in and by the name of the Minister or the Minister's name of office and may be continued by the Minister's successor in office as if no change had occurred, and shall be tried without a jury; and
- (b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of the person is located or situate, for the amount owing, including interest if applicable, by the person, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and the warrant has the same force and effect as a writ of seizure and sale issued out of the Supreme Court of Ontario.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. Idem

(3) Section 34 of the *Retail Sales Tax Act*, which relates to garnishment, applies with necessary modifications with respect to amounts payable to the Treasurer under this Act. Garnishment  
R.S.O. 1980,  
c. 454

(4) Where the Minister considers it advisable, the Minister may accept security for the payment of any amount payable under this Act in any form that the Minister considers satisfactory. Acceptance  
of security

(5) The use of any of the remedies provided by this Act does not bar or affect any of the other remedies herein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of an amount payable under this Act are in addition to any other remedies existing at law. Idem

Duty to keep records

R.S.O. 1980,  
c. 97

**14.**—(1) Every depositary under this Act shall keep the prescribed records at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or at its place of business in Ontario, or at such other place of business as is designated by the Minister in respect of any particular depositary, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Failure to keep records

(2) Where the depositary has failed to keep adequate records for the purposes of this Act, the Minister may require the depositary to keep such records as may be specified by the Minister.

Retention of records

(3) Every depositary required by this section to keep records shall, until permission for their disposal is given by the Minister, retain each such record and every account and voucher necessary to verify the information in each such record.

Audit

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

R.S.O. 1980,  
c. 213

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of any tax credit paid or payable under the *Income Tax Act* in connection with this Act;

R.S.O. 1980,  
c. 213

(b) examine any property, process or matter, an examination of which may, in his or her opinion, assist the person in determining the accuracy of any application required by this Act or ascertaining the information that is or should be in the books and records or in the application, or the amount of any tax credit under the *Income Tax Act* in connection with this Act; and

(c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require the person to attend at the premises or place with him or her.

(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any depositary or from any officer, director or agent thereof, or from any other person,

Demand for information

- (a) any information or additional information or any required or prescribed form; or
- (b) production, or production on oath or affirmation, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated in the letter or demand.

(3) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative value as the original document would have had if it had been proven in the ordinary manner.

Copies

(4) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do.

Duty to comply

(5) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations or affirmations for the purpose of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

Administration of oaths

**16.** Every person employed directly or indirectly in the administration or enforcement of this Act or the *Income Tax Act*, or in the development and evaluation of tax policy for the Government of Ontario, shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

Confidentiality  
R.S.O. 1980,  
c. 213

R.S.C. 1952,  
c. 148

- (a) as may be required in connection with the administration or enforcement of this Act, the *Income Tax Act* or any other Act administered by the Minister or the *Income Tax Act* (Canada) or the regulations under any of them;
- (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
- (c) to his or her counsel; or
- (d) with the consent of the person to whom the information or material relates.

Offences

**17.—(1)** Any person who contravenes any provision of this Act or the regulations is guilty of an offence and, upon conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$2,000.

False  
statements

(2) Every person who,

- (a) makes, participates in, assents to or acquiesces in the making of a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to disclose any material fact the omission of which makes the statement false or misleading;
- (b) makes, assents to, participates in or acquiesces in the making of false or misleading entries, or omits to, or assents to or participates or acquiesces in the omission of entering a material particular, in records required to be maintained under this Act or the regulations;
- (c) knowingly converts to his or her own use a payment of a tax credit under the *Income Tax Act* in respect of a contribution to an Ontario home ownership savings plan to which he or she was not entitled; or
- (d) conspires with any person to commit an offence described in clause (a), (b) or (c),

R.S.O. 1980,  
c. 213

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$20,000.

(3) No person is guilty of an offence under clause (2) (a) or (b) if he or she did not know, and in the exercise of due diligence could not have known, that the statement or entry was false or misleading or the omission makes a statement or record false or misleading. Exception

(4) Subsections 49 (1), (2), (4), (5), (6), (7), (9) and (11) of the *Income Tax Act* apply with necessary modifications for the purposes of this Act. Idem

**18.** Proceedings to enforce any provision of this Act with respect to an Ontario home ownership savings plan may be commenced not later than six years after, Limitation

- (a) where the assets of the plan have been released under section 5, the date of the release; and
- (b) where the planholder of the plan receives any assets of the plan or is deemed by this Act to have received any assets of the plan, the date when the assets of the plan are received or deemed to have been received.

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

- (a) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (b) prescribing any matter required by this Act to be prescribed by the regulations;
- (c) prescribing rates of interest for the purposes of this Act or a formula for computing the rates and the method of calculating the interest;
- (d) increasing or decreasing the percentage referred to in subsection 9 (2) in all circumstances or in prescribed circumstances, and prescribing circumstances where no amount is required to be deducted, withheld and remitted under subsection 9 (2);
- (e) prescribing forms and providing for their use;
- (f) prescribing information to be obtained from planholders by depositaries in connection with or for the purposes of this Act;

- (g) requiring any person to make information returns respecting any class of information required by the Minister in the administration of this Act or in determining compliance with this Act;
- (h) providing for the review and approval of specimen Ontario home ownership savings plans.

May be  
retroactive

(2) A regulation is, if it so provides, effective with reference to a period before it was filed.

Commence-  
ment

**20.** This Act comes into force on the earlier of,

- (a) the day on which it receives Royal Assent; or
- (b) the 1st day of September, 1988.

Short title

**21.** The short title of this Act is the *Ontario Home Ownership Savings Plan Act, 1988*.







# Bill 126

*(Chapter 35  
Statutes of Ontario, 1988)*

## **An Act to assist Ontario Residents to save for the purchase of a First Home**

The Hon. B. Grandmaître  
*Minister of Revenue*

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<i>1st Reading</i>	May 2nd, 1988
<i>2nd Reading</i>	June 2nd, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

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Bill 126

1988

**An Act to assist Ontario Residents  
to save for the purchase of a First Home**

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4. Duty to hold in qualified investments	12. Tax credit recovery after release of assets of plan
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	21. Short title

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,

Definitions

“assets of the plan”, in respect of a home ownership savings plan, means all contributions made into the plan, any transfers made into the plan under section 7 and all income earned therefrom and on assets substituted therefor, whether or not the assets of the plan are in the form of qualified investments;

“contribution” means an amount of money paid by an individual to a depositary as a payment into a home ownership savings plan;

“depositary” means a branch or office in Ontario of,

(a) the Province of Ontario Savings Office, or

- (b) a financial institution that is a member of the Canada Deposit Insurance Corporation or of the Ontario Share and Deposit Insurance Corporation;

“home ownership savings plan” means an arrangement entered into by an individual and a depository under which payment is made by the individual to the depository of an amount of money as a payment under the arrangement to be used, invested or otherwise applied by the depository for the purpose of providing to the individual as the planholder under the arrangement an amount of money to be used by the individual for the purchase by him or her of a qualifying eligible home;

R.S.C. 1952,  
c. 148

“individual” means a person other than either a trust referred to in subdivision k of Division B of Part I of the *Income Tax Act* (Canada) or a corporation;

“Minister” means the Minister of Revenue;

“Ontario home ownership savings plan” means a home ownership savings plan that complies with section 2;

“planholder”, in respect of a home ownership savings plan, means an individual eighteen or more years of age to whom, under the plan, a single payment is agreed to be paid, but does not include an individual to whom under a plan a single payment is agreed to be paid as a consequence of the death of another individual;

“prescribed” means prescribed by the regulations;

“qualified investment” means an investment that is a qualified investment for the purposes of section 4;

“qualifying contribution” has the meaning given to that expression by section 3;

“qualifying eligible home” has the meaning given to that expression by subsection 5 (4);

“regulations” means the regulations made under this Act;

“solicitor” means a member of the Law Society of Upper Canada who is entitled to practise law in Ontario as a barrister and solicitor and who maintains all insurance coverage that may be required by the Law Society of Upper Canada from time to time in connection with and for the purposes of carrying on the private practice of law in Ontario;

“spouse” means an individual to whom an individual is married;

“tax credit” means an Ontario home ownership savings plan tax credit allowed to an individual or the individual’s spouse or former spouse under the *Income Tax Act* with respect to the amount of qualifying contributions made by the individual to an Ontario home ownership savings plan; R.S.O. 1980,  
c. 213

“tax credit recovery” means the amount determined under subsection 9 (1);

“taxation year” has the meaning given to that expression by the *Income Tax Act*;

“Treasurer” means the Treasurer of Ontario.

(2) For the purposes of this Act, an eligible home is,

Eligible  
home

- (a) a detached house;
- (b) a semi-detached house;
- (c) a townhouse;
- (d) a share or shares of the capital stock of a co-operative corporation if the share or shares are acquired for the purpose of acquiring the right to inhabit a housing unit owned by the corporation;
- (e) a mobile home that complies with the prescribed standards and is suitable for year round permanent residential occupation;
- (f) a condominium unit;
- (g) a residential dwelling that is a duplex, triplex or a fourplex; or
- (h) any other residential property as may be prescribed.

(3) For the purposes of this Act, an individual shall not be considered to own an eligible home unless, Ownership of  
eligible home

- (a) in the case of an eligible home referred to in clause (2) (a), (b), (c) or (g), the individual has an ownership interest in the eligible home and,

R.S.O. 1980,  
c. 84

- (i) owns a freehold estate in the land adjacent to the eligible home other than as a mortgagee, or
  - (ii) is a lessee of the land adjacent to the eligible home;
- (b) in the case of an eligible home that is a condominium unit, the individual is an owner of the unit and common elements within the meaning of the *Condominium Act*;
- (c) in the case of an eligible home in the form of a share or shares of the capital stock of a co-operative corporation,
- (i) the individual has acquired, jointly with another person or otherwise, the share or shares to enable the individual to acquire a right to occupy a housing unit owned by the co-operative corporation,
  - (ii) the individual and the co-operative corporation have entered into an enforceable occupancy agreement in respect of the housing unit, and
  - (iii) the individual is entitled to vacant possession of the housing unit under the terms of the occupancy agreement;
- (d) in the case of an eligible home that is a mobile home suitable for year-round permanent residential occupation,
- (i) the individual, either alone or jointly with another person, has completed the purchase of the mobile home,
  - (ii) the mobile home is situated on a foundation, which meets the prescribed standards, on the land where it is to be inhabited, and
  - (iii) the land is owned by the individual, jointly with another person or otherwise, or is occupied by the individual under a licence or lease that permits the individual to locate the mobile home on the land and to occupy it as a year-round residence; and

- (e) in the case of an eligible home of a prescribed class or nature, or owned by a member of a prescribed class of persons, the prescribed terms and conditions are met.

2. For the purposes of this Act and the *Income Tax Act*, a home ownership savings plan entered into by a planholder and a depository after the 31st day of August, 1988, and before the 1st day of January, 1994, that complies with the following terms and conditions is an Ontario home ownership savings plan:

Terms of  
Ontario  
home  
ownership  
savings plan  
R.S.O. 1980,  
c. 213

1. The terms of the plan do not permit any payment to the planholder of any asset of the plan except by way of,
  - i. a single payment of all of the assets of the plan to a solicitor designated by the planholder to hold the assets of the plan as trust property in trust for the planholder and the Crown jointly and to legally represent the planholder in the purchase by the planholder of a qualifying eligible home, or
  - ii. a single payment of all the assets of the plan, less the amount to be withheld by the depository under section 9 or the amount, if any, directed by the Minister under subsection 5 (5), to the planholder or to the legal personal representative of the planholder upon the death of the planholder.
2. The terms of the plan require the depository to withhold and remit to the Minister the percentage of the total value of the assets of the plan required under section 9 on any payment of assets of the plan to the planholder or to the legal personal representative of the planholder upon the death of the planholder.
3. The terms of the plan provide that the depository will accept repayment of assets into the plan from a solicitor to whom assets of the plan were paid.
4. The terms of the plan provide that the payment to the planholder is not capable in whole or in part of surrender, assignment or transfer except as permitted by an election under section 7.

R.S.C. 1952,  
c. 148

5. The planholder is at least eighteen years of age and a resident of Ontario at the time of entering into the plan.
6. The planholder has been assigned a Social Insurance Number referred to in section 237 of the *Income Tax Act* (Canada) and has provided that number and the Social Insurance Number of the planholder's spouse, if the planholder is married, to the depositary at the time of entering into the plan.
7. The planholder is not and has never previously been a planholder under any other Ontario home ownership savings plan.
8. The planholder has never owned an eligible home anywhere in the world.
9. No spouse of the planholder with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, has ever owned an eligible home anywhere in the world.
10. The terms of the plan prohibit any amendment to the terms of the plan other than the addition or deletion of the right of the planholder to make an election described in subsection 7 (1).
11. The terms of the plan provide that on the death of the planholder, the depositary shall transfer or distribute all assets of the plan, less any amount required by section 9 to be withheld and remitted to the Minister, in accordance with this Act.
12. The terms of the plan prohibit the holding of the assets of the plan in any form other than qualified investments.
13. The plan includes a provision denying the depositary any right of set-off as regards the assets of the plan in connection with any debt or obligation to the depositary that the planholder under the plan owes or may thereafter owe.
14. The terms of the plan provide that no loan or advance may be made to the planholder or to any person with whom the planholder does not deal at arm's length, within the meaning of section 251 of



the *Income Tax Act* (Canada), if a condition of such loan or advance is the existence of the plan. R.S.C. 1952, c. 148

15. The terms of the plan include the acknowledgment by the planholder that he or she understands that the amount of a tax credit, if any, available under the *Income Tax Act* with respect to contributions made to the plan in any year depend on the planholder's level of income for that year and that the provisions of this Act apply notwithstanding that the planholder may not be entitled to a tax credit in any year. R.S.O. 1980, c. 213

16. The terms of the plan provide that any receipt,

i. for a contribution to the plan, issued by the depository after the date on which the planholder has received, or has been deemed by this Act to have received, any assets of the plan or the use or benefit of any assets of the plan, other than in accordance with section 5, or

ii. for a contribution made to the plan after the 31st day of December of the fourth calendar year ending after the end of the calendar year in which the plan was entered into by the depository and the planholder,

shall be in a form substantially different from the form of receipt required to be filed with the Minister by a planholder claiming a tax credit under the *Income Tax Act* with respect to contributions made to an Ontario home ownership savings plan. R.S.O. 1980, c. 213

17. The terms of the plan contain the consent of the planholder to the release to the Minister of all information obtained by the depository with respect to the plan, the planholder and the planholder's spouse, if any, for the purposes of this Act and the operation of the plan.

18. The terms of the plan comply with any additional prescribed conditions or requirements.

**3.—(1)** The total amount of a planholder's qualifying contributions to an Ontario home ownership savings plan for a calendar year for the purposes of this Act and the *Income Tax Act* shall not exceed the lesser of, Maximum annual qualifying contributions R.S.O. 1980, c. 213

- (a) the total amount of qualifying contributions made by the planholder to the planholder's Ontario home ownership savings plan during the calendar year; and
- (b) \$2,000.

Time limit  
for qualifying  
contributions

(2) No contribution to an Ontario home ownership savings plan shall be a qualifying contribution unless it is made on or before the earlier of,

- (a) the 31st day of December, 1997; and
- (b) the 31st day of December of the fourth calendar year ending after the end of the calendar year in which the plan was entered into by the depository and the planholder.

Idem

R.S.O. 1980,  
c. 213

(3) No contribution to an Ontario home ownership savings plan shall be a qualifying contribution for the purposes of this Act and the *Income Tax Act* where,

- (a) the planholder has received or has been deemed by this Act to have received, other than by reason of death, any assets of the plan or the benefit or use of any assets of the plan during the year in which the contribution is made, otherwise than for the purpose of purchasing a qualifying eligible home described in subsection 5 (4);
- (b) the contribution has been made at a time when the planholder or a spouse of the planholder with whom the planholder resides, or from whom the planholder is separated for reasons other than marriage breakdown,
  - (i) is the owner of an eligible home, or
  - (ii) is a partner in a partnership that owns property that would be an eligible home of the partner if the property was owned by the partner;
- (c) the planholder or a spouse of the planholder with whom the planholder resides at the end of the calendar year in which the contribution is made, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned at any time an interest in an eligible

home, other than an interest in the qualifying eligible home referred to in clause (a); or

- (d) the planholder does not reside in Ontario at the end of the taxation year in which the contribution is made.

**4.—(1)** A depository of an Ontario home ownership savings plan shall hold all assets of the plan only in qualified investments. Duty to hold in qualified investments

(2) For the purposes of this Act, a qualified investment is, Qualified investments defined

(a) money that is legal tender in Canada;

(b) a deposit that is,

(i) with a branch of the Province of Ontario Savings Office or insured by the Canadian Deposit Insurance Corporation or the Ontario Share and Deposit Insurance Corporation, and

(ii) repayable on demand or, where the deposit has a fixed maturity date, is redeemable at the option of the planholder prior to maturity; or

(c) any other type of investment prescribed by the regulations.

**5.—(1)** Where a planholder has entered into a written agreement to purchase an eligible home that will be a qualifying eligible home described in subsection (4) and requests release from the planholder's Ontario home ownership savings plan of assets of the plan to be applied towards the purchase price of the eligible home, the following rules apply: Purchase of qualifying eligible home

1. The planholder shall designate a solicitor for the purposes of this Act in the prescribed manner.
2. The planholder shall make application to the depository of the Ontario home ownership savings plan in the prescribed manner and in the prescribed form for release of the assets of the plan.
3. The depository shall release, not earlier than thirty days before the date set out in the agreement of purchase and sale as the date of closing of the purchase of the eligible home, the assets of the plan as trust property to the solicitor designated by the

planholder and shall file with the Minister at the prescribed time a return in the prescribed form notifying the Minister of the particulars of the release.

4. The solicitor designated by the planholder shall hold the assets of the plan released by the depositary separate and apart from the solicitor's own money, assets and estate, in trust for the benefit of the planholder and Her Majesty in right of Ontario, jointly, and shall deal with the trust property only as provided in paragraph 5 or 6, as applicable.
5. In the event that,
  - i. the agreement of purchase and sale of the eligible home is not completed within the prescribed time after release by the depositary of the assets of the plan to the solicitor in trust,
  - ii. the solicitor declines to accept receipt of the assets of the plan in trust, or declines to assume or fulfil the duties required of the solicitor under this Act, or
  - iii. the solicitor declines to or ceases to represent the planholder in the purchase by the planholder of the eligible home,

the solicitor shall forthwith remit the entire assets of the plan to the depositary in the prescribed manner.

6. Where the agreement of purchase and sale of the eligible home is completed within the prescribed time, the solicitor may release the assets of the plan to the vendor under the agreement of purchase and sale or to the planholder as part or all of the consideration payable by the planholder for the purchase of the eligible home.
7. Upon completion of the purchase of the eligible home by the planholder and the disbursement by the solicitor of the assets of the plan, the solicitor shall file with the Minister proof acceptable to the Minister of the completion of the purchase of the eligible home and the fulfilment by the solicitor of his or her duties under this Act.

Idem

(2) For the purposes of paragraph 1 of section 2, no payment shall be deemed to have been made by a depositary of an Ontario home ownership savings plan to a solicitor where

the solicitor has remitted the assets of the plan received from the depository to the depository under paragraph 5 of subsection (1).

(3) The interest of Her Majesty in right of Ontario in the assets of the plan shall be deemed to be released only where the solicitor has paid over the assets of the plan in accordance with paragraph 6 of subsection (1) on the purchase by the planholder of an eligible home that will be a qualifying eligible home.

Release of  
Crown's  
interest

(4) For the purposes of this Act, an eligible home is a qualifying eligible home only where,

Qualifying  
eligible home  
defined

- (a) the eligible home is located in Ontario and is suitable for use as a year-round dwelling place, or, in the case of an eligible home that is in the form of a share or shares in the capital stock of a co-operative corporation, the housing unit is located in Ontario and is suitable for use as a year-round dwelling place;
- (b) the eligible home is the first eligible home anywhere owned, jointly with another person or otherwise, by the planholder; and
- (c) the eligible home is acquired as the principal residence of the planholder to be ordinarily inhabited by the planholder or by the planholder's spouse or an individual who was the planholder's spouse at the time of acquisition by the planholder of the eligible home, or by both of them, for a period of at least thirty consecutive days within two years of the first day of ownership by the planholder.

(5) Where the assets of the plan have not been released under subsection (1), the Minister may, if the Minister is satisfied that the planholder has purchased property that is or may become a qualifying eligible home under subsection (4),

Minister's  
discretion to  
release

- (a) consent to the release of the assets of the plan by the depository to the planholder;
- (b) in the case of an agreement to purchase a proposed condominium unit that may become a qualifying eligible home, consent to the release of the assets of the plan to the planholder, but the date of release of the assets of the plan shall be not more than thirty days before the date when a deed or transfer of the unit acceptable for registration is to be deliv-

ered to the planholder unless the Minister is satisfied that,

- (i) the planholder is required, under the agreement to purchase the proposed condominium unit, to take possession of or to occupy the proposed condominium unit before a deed or transfer of the unit acceptable for registration is delivered to the planholder, and
- (ii) the total amount the planholder has paid or is required to pay forthwith to the vendor of the proposed condominium unit under the agreement is equal to or greater than the value of the assets of the plan;
- (c) direct that no amount, or an amount not in excess of the amount otherwise determined under subsection 9 (2), be deducted, withheld and remitted to the Minister by the depository of the plan under subsection 9 (2); and
- (d) impose such conditions on the release as the Minister, in his or her discretion, considers necessary to ensure compliance with this Act and the regulations.

Refund

(6) Where an amount has been deducted, withheld and remitted under clause (5) (c), the Minister may refund the amount to the planholder, together with interest on the amount at the prescribed rate, where the Minister is satisfied that the property purchased by the planholder is or will be a qualifying eligible home under subsection (4).

Proposed  
condominium  
unit

(7) For the purposes of subsection 12 (1), where the assets of an Ontario home ownership savings plan have been released under subsection (5) to a planholder who has entered into an agreement to purchase a proposed condominium unit, the planholder shall be deemed to have acquired ownership of the proposed condominium unit and the proposed condominium unit shall be deemed to be an eligible home on the date the planholder is entitled to immediate vacant possession of the proposed condominium unit.

Death of  
planholder

6. Subject to section 7, in the event of the death of a planholder of an Ontario home ownership savings plan,

- (a) the planholder shall be deemed to have received all of the assets of the plan immediately before his or her death; and

- (b) the depositary of the Ontario home ownership savings plan shall pay over the assets of the plan, less the amount required to be withheld and remitted to the Minister under section 9, to the legal personal representative of the deceased planholder or, where the planholder had previously designated in writing a person entitled to receipt of the assets of the plan on the death of the planholder, to such person.

7.—(1) If permitted by the terms of the plan, the planholder of an Ontario home ownership savings plan may make and file with the depositary of the plan an election in writing, electing to transfer all assets of the plan on the death of the planholder to the Ontario home ownership savings plan of the planholder's spouse if the spouse survives the planholder.

Election to transfer on death of planholder

(2) Subject to subsection (3), where the planholder of an Ontario home ownership savings plan has made and filed an election under subsection (1) that was not revoked by the planholder before his or her death, the depositary of the plan shall, upon the death of the deceased planholder,

Transfer to spouse's plan

- (a) transfer all assets of the plan within fifteen months of the death of the deceased planholder to the Ontario home ownership savings plan of which the spouse of the deceased planholder is the planholder; and
- (b) notify the Minister in writing of the transfer and provide to the Minister such information with respect to the transfer as the Minister may require.

(3) No transfer may be made under subsection (2) unless,

No transfer to spouse's plan

- (a) the spouse is alive at the time of the transfer to the spouse's Ontario home ownership savings plan; and
- (b) the spouse is eligible under this Act to be and is a planholder of an Ontario home ownership savings plan at the time of the transfer.

(4) For the purposes of this Act and the *Income Tax Act*, where assets of the plan of a deceased planholder have been transferred under subsection (2),

Idem  
R.S.O. 1980,  
c. 213

- (a) all such property shall be deemed to form part of the assets of the plan of the spouse from the date of death of the deceased planholder;

- (b) any tax credit allowed under the *Income Tax Act* to a person with respect to any qualifying contribution made by the deceased planholder to the deceased planholder's Ontario home ownership savings plan shall be deemed to be a tax credit allowed to the spouse at the time, in the amount and in respect of the taxation year such tax credit was allowed under that Act to such person, notwithstanding that by operation of this clause the total amount of tax credits allowed and deemed to have been allowed to the spouse in respect of any taxation year exceeds the maximum tax credit allowed under that Act for the taxation year, and the date of the first assessment referred to in subclause 9 (1) (b) (i) shall be, for the purposes of determining the amount of interest that may be payable at any time by the spouse under subsection 9 (1), the date of the first assessment for the taxation year under which the tax credit was allowed to such person;
- (c) the deceased planholder shall be deemed not to have received any assets of the plan; and
- (d) the amount of the transfer shall not be taken into consideration in determining the amount of any tax credit that may be claimed by any person under the *Income Tax Act* with respect to contributions to the spouse's plan.

R.S.O. 1980,  
c. 213

Deemed  
revocation of  
election

(5) Where no transfer under subsection (2) may be made by reason of the provisions of subsection (3), the deceased planholder shall be deemed to have revoked the election referred to in subsection (1) prior to death.

Multiple  
transfers

(6) For the purposes of clause (4) (b), the qualifying contributions made by the deceased planholder to the deceased planholder's Ontario home ownership savings plan shall be deemed to include all qualifying contributions made by any other deceased planholder to an Ontario home ownership savings plan the assets of which have been transferred under this section to the deceased planholder's Ontario home ownership savings plan.

Replacement  
depository

**8.** An Ontario home ownership savings plan may at any time be revised or amended to provide for the transfer, on behalf of and at the direction of the planholder, of the assets of the plan by the depository to another depository, which may be referred to as a replacement depository, to be held by the replacement depository as assets of an Ontario home ownership savings plan and upon the transfer,



- (a) the amount transferred shall not be deemed to have been received by the planholder;
- (b) the replacement depositary shall hold the amount transferred as assets of the Ontario home ownership savings plan of the planholder under an arrangement the terms and conditions of which comply with section 2 and shall assume and fulfil the responsibilities under this Act of the depositary of the plan;
- (c) the transfer shall not be considered to be a qualifying contribution to an Ontario home ownership savings plan; and
- (d) the planholder shall not be considered to have entered into more than one Ontario home ownership savings plan by reason only of the transfer.

9.—(1) Where a planholder under an Ontario home ownership savings plan receives any assets of the plan or the use or benefit of any assets of the plan either directly or indirectly, or is deemed by this Act to have received any assets of the plan, other than for the purpose of purchasing a qualifying eligible home described in subsection 5 (4), the planholder is liable to pay to the Treasurer an amount equal to the aggregate of,

Tax credit  
recovery

- (a) a tax credit recovery equal to the total amount of all tax credits allowed under the *Income Tax Act* to the planholder or to the planholder's spouse or former spouse in respect of qualifying contributions made by the planholder to the plan; and
- (b) interest at the prescribed rate on the amount of each such tax credit computed from the later of,
  - (i) the date of the first assessment under the *Income Tax Act* for the taxation year to which the tax credit applies which allows the tax credit to any person, and
  - (ii) the 30th day of April of the year following the taxation year to which the tax credit applies,

R.S.O. 1980,  
c. 213

to the date of payment by the planholder.

(2) Except in the circumstances described in section 5, where a depositary of an Ontario home ownership savings plan pays out or releases any assets of the plan to any person,

Withholding  
by depositary

or the planholder is deemed by this Act to have received any assets of the plan, the depositary shall,

- (a) file with the Minister a return in the prescribed form containing the prescribed information within thirty days of the date of the payment or release of the assets of the plan or the date the planholder is deemed by this Act to have received any assets of the plan, as the case may be;
- (b) deduct and withhold from the assets of the plan and remit to the Minister in the prescribed manner and at the prescribed time, on account of the tax credit recovery and interest payable by the planholder under subsection (1), an amount equal to 25 per cent of the total value of all assets of the plan immediately before the payment or release or on the date the planholder is deemed by this Act to have received any assets of the plan, as the case may be; and
- (c) hold the amount required to be withheld and remitted under clause (b) separate and apart from the depositary's own money, assets and estate, in trust for Her Majesty in right of Ontario, until the amount is remitted to the Minister.

Notice of determination of tax credit recovery and interest

(3) Where a planholder is liable to pay an amount under subsection (1), the Minister shall determine the amount of the tax credit recovery and interest payable by the planholder and shall send to the planholder a notice of determination of the tax credit recovery and interest.

Payment of tax credit recovery and interest

(4) The planholder shall, within thirty days from the day of mailing of the notice of determination under subsection (3), pay to the Treasurer any part of the tax credit recovery and interest then remaining unpaid, whether or not an objection to or an appeal from the Minister's determination is outstanding, all amounts received by the Treasurer under this section to be applied firstly to any interest then payable and any balance then remaining to be applied against the tax credit recovery payable.

Refund of overpayment

(5) The Minister shall, on or after mailing the notice of determination under subsection (3), refund any overpayment made on account of the amount payable by the planholder under subsection (1) and shall pay interest at the prescribed rate on such overpayment from the day when the overpayment arose to the day of refunding, unless the amount of the

interest calculated is less than one dollar, in which event no interest shall be paid.

(6) A notice of determination under this section includes any amended notice of determination. Idem

(7) Where an amount has been deducted, withheld and remitted under subsection (2), the receipt of the Minister therefor is a full and sufficient discharge to the depositary for the payment over of such money and such payment is a full and complete discharge to the depositary making it and for any claim to such payment by any person who claims to be entitled to the funds. Idem

(8) Where a depositary fails to deduct, withhold and remit an amount as required by subsection (2), the depositary is liable to the Crown for the amount that should have been deducted, withheld and remitted. Idem

(9) The terms of an Ontario home ownership savings plan may permit a depositary, on a transfer, payment or release of the assets of the plan, to deduct any fees or charges payable by the planholder to the depositary in connection with the operation or administration of the plan from the assets of the plan remaining after the deduction of any amount required to be deducted under subsection (2). Adminis-  
tration fee

**10.—**(1) Where the Minister determines that, Proposal to  
close plan

- (a) a home ownership savings plan purporting to be an Ontario home ownership savings plan has failed to comply with the requirements of section 2;
- (b) a contribution made to an Ontario home ownership savings plan was not a qualifying contribution by reason of clause 3 (3) (a), (b) or (d);
- (c) the planholder of an Ontario home ownership savings plan owns or owned at any time an interest in an eligible home;
- (d) the spouse of a planholder of an Ontario home ownership savings plan with whom the planholder resides, or from whom the planholder lives separate and apart for reasons other than marriage breakdown, owns or owned, at any time when the planholder and the spouse were married, an interest in an eligible home; or

- (e) the assets of the plan are not held in the form of qualified investments,

the Minister may serve on the planholder and the depository of the plan, by ordinary mail or by personal service, a notice of proposal to close the plan, together with written reasons therefor.

Consent to  
release after  
proposal

(2) Where the Minister has served a proposal under subsection (1), the depository shall not release any assets of the plan to any person without obtaining the prior written consent of the Minister to the release.

Objection

(3) Where the planholder objects to a proposal served under subsection (1), the planholder may, within sixty days from the date of mailing of the proposal, serve on the Minister by registered mail addressed to the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Closing of  
plan

(4) Where no notice of objection is served under subsection (3), the Minister may carry out the proposal to close the plan by serving on the planholder and the depository, by ordinary mail or personal service, a notice of closing of the plan.

Recovery of  
tax credits

(5) Where the Minister serves a notice of closing under subsection (4),

- (a) the planholder shall be deemed, for the purposes of section 9, to have received all the assets of the plan on the day of mailing of the notice of closing;
- (b) the depository shall deduct, withhold and remit to the Minister under subsection 9 (2),
- (i) where the Minister specifies in the notice of closing an amount to be deducted, withheld and remitted, such amount in lieu of the amount otherwise required under subsection 9 (2), and
- (ii) where the Minister does not specify in the notice of closing an amount to be deducted, withheld and remitted, the amount required to be deducted, withheld and remitted under subsection 9 (2); and
- (c) where the Minister specifies in the notice of closing an amount to be deducted, withheld and remitted by the depository of the plan, the notice of closing

shall be deemed, for the purposes of sections 9 and 12, to be a notice of determination of tax credit recovery and interest sent to the planholder under subsection 9 (3).

**11.** In the event that a planholder under an Ontario home ownership savings plan has not obtained a release of the assets of the plan under section 5 and completed, on or before the 31st day of December, 1999, the purchase of property that will be a qualifying eligible home, the planholder shall be deemed, for the purposes of section 9, to have received all the assets of the plan on the 1st day of January, 2000.

Deemed receipt of assets of plan on 1st day of January, 2000

**12.—(1)** Where, after the assets of an Ontario home ownership savings plan have been released under section 5 and used in the purchase of property, the Minister determines that,

Tax credit recovery after release of assets of plan

- (a) the Ontario home ownership savings plan failed to comply with the requirements of section 2;
- (b) a contribution made to the Ontario home ownership savings plan was not a qualifying contribution by reason of clause 3 (3) (a), (b) or (d);
- (c) the planholder of the Ontario home ownership savings plan owned an interest in an eligible home at any time before the purchase of the property;
- (d) a spouse of the planholder of the Ontario home ownership savings plan with whom the planholder resided at the time of the purchase of the property, or from whom the planholder lived separate and apart for reasons other than marriage breakdown, owned, at any time before the purchase of the property and while the planholder and the spouse were married, an interest in an eligible home; or
- (e) the assets of the plan were used in the purchase of property,
  - (i) that was not a qualifying eligible home, or
  - (ii) from a person who, at the time of the purchase, did not deal, within the meaning of section 251 of the *Income Tax Act* (Canada), at arm's length with the planholder, for a consideration less than the value of the assets of the plan at the time of the release of the assets of the plan under section 5,

R.S.C. 1952, c. 148

the Minister may serve, on the former planholder of the plan, by ordinary mail or by personal service, a notice of determination of tax credit recovery and interest, together with written reasons therefor.

Idem

(2) Where a notice of determination of tax credit recovery and interest has been served under subsection (1), the former planholder of the plan shall be deemed, for the purposes of subsections 9 (1), (4) and (6), to have received all of the assets of the plan on the date the assets of the plan were released under section 5 by the depositary thereof and shall be liable to pay to the Treasurer the amount determined under subsection 9 (1).

Objection

(3) Where a planholder or former planholder objects to a notice served under subsection (1) or 9 (3), the planholder or former planholder may, within sixty days from the day of mailing of the notice, serve on the Minister, by registered mail addressed to the Minister, a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Idem

(4) The Minister may accept a notice of objection under this section or section 10 notwithstanding that it was not served in the manner required.

Reconsideration

(5) Upon receipt of a notice of objection served under this section or section 10, the Minister shall, with all due dispatch, reconsider the proposal or determination objected to and confirm, vary or abandon the proposal or determination, and the Minister shall thereupon notify the planholder or former planholder making the objection of his or her action by registered mail.

Where decision final

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act or the *Income Tax Act*, or involves an issue solely of law.

R.S.O. 1980,  
c. 213

Determination of question

(7) In any dispute over a decision or action of the Minister under subsection (5), the Minister may, where the dispute involves the interpretation of a provision of this Act or the *Income Tax Act*, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Divisional Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts

have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

**13.—(1)** Upon default of payment by any person of any amount owing by the person to the Treasurer under this Act, Action to collect

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar nature may be collected, and every such action shall be brought and executed in and by the name of the Minister or the Minister's name of office and may be continued by the Minister's successor in office as if no change had occurred, and shall be tried without a jury; and
- (b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of the person is located or situate, for the amount owing, including interest if applicable, by the person, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and the warrant has the same force and effect as a writ of seizure and sale issued out of the Supreme Court of Ontario.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. Idem

(3) Section 34 of the *Retail Sales Tax Act*, which relates to garnishment, applies with necessary modifications with respect to amounts payable to the Treasurer under this Act. Garnishment  
R.S.O. 1980,  
c. 454

(4) Where the Minister considers it advisable, the Minister may accept security for the payment of any amount payable under this Act in any form that the Minister considers satisfactory. Acceptance  
of security

(5) The use of any of the remedies provided by this Act does not bar or affect any of the other remedies herein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of an amount payable under this Act are in addition to any other remedies existing at law. Idem

Duty to keep records

R.S.O. 1980, c. 97

**14.**—(1) Every depository under this Act shall keep the prescribed records at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or at its place of business in Ontario, or at such other place of business as is designated by the Minister in respect of any particular depository, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Failure to keep records

(2) Where the depository has failed to keep adequate records for the purposes of this Act, the Minister may require the depository to keep such records as may be specified by the Minister.

Retention of records

(3) Every depository required by this section to keep records shall, until permission for their disposal is given by the Minister, retain each such record and every account and voucher necessary to verify the information in each such record.

Audit

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

R.S.O. 1980, c. 213

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of any tax credit paid or payable under the *Income Tax Act* in connection with this Act;

R.S.O. 1980, c. 213

(b) examine any property, process or matter, an examination of which may, in his or her opinion, assist the person in determining the accuracy of any application required by this Act or ascertaining the information that is or should be in the books and records or in the application, or the amount of any tax credit under the *Income Tax Act* in connection with this Act; and

(c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require the person to attend at the premises or place with him or her.



(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any depositary or from any officer, director or agent thereof, or from any other person,

Demand for information

- (a) any information or additional information or any required or prescribed form; or
- (b) production, or production on oath or affirmation, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated in the letter or demand.

(3) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative value as the original document would have had if it had been proven in the ordinary manner.

Copies

(4) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do.

Duty to comply

(5) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations or affirmations for the purpose of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

Administration of oaths

**16.** Every person employed directly or indirectly in the administration or enforcement of this Act or the *Income Tax Act*, or in the development and evaluation of tax policy for the Government of Ontario, shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

Confidentiality  
R.S.O. 1980,  
c. 213

- R.S.O. 1980,  
c. 213
- R.S.C. 1952,  
c. 148
- (a) as may be required in connection with the administration or enforcement of this Act, the *Income Tax Act* or any other Act administered by the Minister or the *Income Tax Act* (Canada) or the regulations under any of them;
  - (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
  - (c) to his or her counsel; or
  - (d) with the consent of the person to whom the information or material relates.

## Offences

**17.—(1)** Any person who contravenes any provision of this Act or the regulations is guilty of an offence and, upon conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$2,000.

## False statements

(2) Every person who,

- (a) makes, participates in, assents to or acquiesces in the making of a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to disclose any material fact the omission of which makes the statement false or misleading;
- (b) makes, assents to, participates in or acquiesces in the making of false or misleading entries, or omits to, or assents to or participates or acquiesces in the omission of entering a material particular, in records required to be maintained under this Act or the regulations;
- (c) knowingly converts to his or her own use a payment of a tax credit under the *Income Tax Act* in respect of a contribution to an Ontario home ownership savings plan to which he or she was not entitled; or
- (d) conspires with any person to commit an offence described in clause (a), (b) or (c),

R.S.O. 1980,  
c. 213

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$20,000.

(3) No person is guilty of an offence under clause (2) (a) or (b) if he or she did not know, and in the exercise of due diligence could not have known, that the statement or entry was false or misleading or the omission makes a statement or record false or misleading. Exception

(4) Subsections 49 (1), (2), (4), (5), (6), (7), (9) and (11) of the *Income Tax Act* apply with necessary modifications for the purposes of this Act. Idem  
R.S.O. 1980,  
c. 213

**18.** Proceedings to enforce any provision of this Act with respect to an Ontario home ownership savings plan may be commenced not later than six years after, Limitation

- (a) where the assets of the plan have been released under section 5, the date of the release; and
- (b) where the planholder of the plan receives any assets of the plan or is deemed by this Act to have received any assets of the plan, the date when the assets of the plan are received or deemed to have been received.

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

- (a) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (b) prescribing any matter required by this Act to be prescribed by the regulations;
- (c) prescribing rates of interest for the purposes of this Act or a formula for computing the rates and the method of calculating the interest;
- (d) increasing or decreasing the percentage referred to in subsection 9 (2) in all circumstances or in prescribed circumstances, and prescribing circumstances where no amount is required to be deducted, withheld and remitted under subsection 9 (2);
- (e) prescribing forms and providing for their use;
- (f) prescribing information to be obtained from planholders by depositaries in connection with or for the purposes of this Act;

- (g) requiring any person to make information returns respecting any class of information required by the Minister in the administration of this Act or in determining compliance with this Act;
- (h) providing for the review and approval of specimen Ontario home ownership savings plans.

May be  
retroactive

(2) A regulation is, if it so provides, effective with reference to a period before it was filed.

Commence-  
ment

**20.** This Act comes into force on the earlier of,

- (a) the day on which it receives Royal Assent; or
- (b) the 1st day of September, 1988.

Short title

**21.** The short title of this Act is the *Ontario Home Ownership Savings Plan Act, 1988*.

# Bill 127

**An Act respecting the Labour Disputes between  
All-Way Transportation Corporation  
(Wheel-Trans Division) and Local 113,  
Amalgamated Transit Union**

Mrs. Marland

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*1st Reading*      May 3rd, 1988  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

### EXPLANATORY NOTE

The purpose of the Bill is to end the labour disputes involving All-Way Transportation Corporation (Wheel-Trans Division) and Local 113, Amalgamated Transit Union. The Bill provides for the immediate return to work by the employees and the immediate start-up of operation by the employer. Under the Bill, the dispute is to be settled by compulsory arbitration.

Bill 127

1988

**An Act respecting the Labour Disputes between  
All-Way Transportation Corporation  
(Wheel-Trans Division) and Local 113,  
Amalgamated Transit Union**

Whereas All-Way Transportation Corporation (Wheel-Trans Division) and Local 113, Amalgamated Transit Union, have been parties to two collective agreements, both of which have expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under the *Labour Relations Act*; and whereas the parties have not achieved a settlement of the disputes; and whereas the strike by the union against the employer has caused a cessation of transportation services for the handicapped, rendering travel for the handicapped difficult and causing hardship; and whereas the public interest and welfare require that means be provided to bring the strike to an end and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties;

Preamble

R.S.O. 1980,  
c. 228

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

**1.—(1)** In this Act,

Definitions

“employees” means the employees mentioned in subsection 2 (1);

“employer” means All-Way Transportation Corporation (Wheel-Trans Division);

“expiry date” means the 31st day of December, 1987;

“Minister” means the Minister of Labour;

“parties” means the employer and the union;

“union” means Local 113, Amalgamated Transit Union.

- Idem  
R.S.O. 1980,  
c. 228
- (2) Unless a contrary intention appears, expressions in this Act have the same meaning as in the *Labour Relations Act*.
- Application  
of Act
- 2.**—(1) This Act applies to the parties and to the employees of the employer on whose behalf the union is entitled to bargain with the employer under the *Labour Relations Act*.
- Application  
of  
R.S.O. 1980,  
c. 228
- (2) Except as modified by this Act, the *Labour Relations Act* applies to the parties and to the employees mentioned in subsection (1).
- 3.**—(1) Upon the coming into force of this Act,
- Strike  
terminated
- (a) the strike shall be terminated immediately by the union and the employees;
- Return to  
work
- (b) every employee shall report for work and shall perform his or her duties in accordance with his or her work assignment;
- Resumption  
of  
operations
- (c) the employer shall commence start-up operations immediately and, as soon as practicable, shall operate and continue to operate its undertakings to their normal extent, scope and capacity;
- No strike  
of lock-out
- (d) no person, employee or officer, official or agent of the employer or the union shall engage in, declare, authorize or acquiesce in any lock-out, strike or picketing or in any activity contrary to any provision of this Act;
- Terms of  
employment  
not to be  
altered
- (e) the employer shall not, except with the consent of the union, alter the rates of wages of the employees as increased by this Act or any other term or condition of employment, or any right, privilege or duty of the union or the employees, that were in operation on the expiry date; and
- Idem
- (f) the union shall not, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the union or the employees, that were in operation on the expiry date; and
- Compliance  
with  
subs. (1)
- (2) Any difference between the parties as to whether or not clauses (1) (e) and (f) have been complied with may be referred to arbitration by the parties or any of them as if the collective agreements that were in force on the expiry date were still in operation, and sections 44 and 45 of the *Labour Relations Act* apply with necessary modifications thereto.
- R.S.O. 1980,  
c. 228



**4.—(1)** The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine and decide upon the matters referred to in section 5. Appointment of arbitrator

(2) Where the arbitrator is unable to take up or to carry on his or her duties so as to enable him or her to render a decision within the period of time mentioned in subsection 5 (4), the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator and the inquiry shall begin anew. Replacement of arbitrator

(3) The arbitrator shall determine his or her own procedure, but shall give full opportunity to the employer and the union to present their evidence and make their submissions. Procedure

(4) The arbitrator has all the powers of an arbitrator under the *Labour Relations Act*. Powers of arbitrator

**5.—(1)** The arbitrator shall examine and decide all matters remaining in dispute between the employer and the union immediately before the coming into force of this Act, including any matter that may be a subject of dispute as to agreement thereon and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude collective agreements between the parties. Duty of arbitrator

(2) The arbitrator shall remain seized of and may deal with all matters within the arbitrator's jurisdiction until collective agreements between the employer and the union are in effect. Arbitrator to remain seized of matters in dispute

(3) Where, before or during the proceedings before the arbitrator, the employer and the union agree upon some matters to be included in the collective agreements and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to, Agreement upon some matters

(a) the matters not agreed upon between the employer and the union; and

(b) any further matters that the employer and the union agree should be decided by the arbitrator or that appear to the arbitrator to be necessary to be decided in order to conclude the collective agreements.

(4) The collective agreements between the parties shall be for periods in each case commencing on the day immediately following the expiry date and expiring with the second anniversary of the expiry date. Terms of agreements

Decision  
of  
arbitrator

(5) The arbitrator's decision shall be made within forty-five days after the date of appointment or within such further period of time as the Minister may permit.

Decision  
binding

**6.**—(1) The arbitrator's decision shall be binding upon the employer and the union and the employees.

Execution  
of  
agreement

(2) Within seven days of the date of the arbitrator's decision or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the arbitrator's decision and any agreement of the parties, and the documents thereupon constitute collective agreements.

Preparation  
of  
agreement  
by  
arbitrator

(3) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the arbitrator's decision and any agreement of the parties within the period mentioned in subsection (2), they shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare documents in the form of collective agreements giving effect to the decision and any agreement of the parties and submit the document to the parties for execution.

Failure  
to execute  
agreement

(4) If the parties, or either of them, fail to execute the documents prepared by the arbitrator within a period of seven days from the day the arbitrator submits the documents to them, the documents shall come into effect as though they had been executed by the parties and shall thereupon constitute collective agreements.

R.S.O. 1980,  
cc. 25, 484  
not to apply

**7.** The *Arbitrations Act* and Part 1 of the *Statutory Powers Procedure Act* do not apply to the arbitration and the arbitrator's decision under this Act.

Hourly  
rates of  
wages,  
immediate  
increases

**8.** The basic hourly rates of wages for the employees are hereby increased by \$1.00 per hour over the basic hourly wage rates in effect on the expiry date, effective in each case from and including the expiry date to and including the first anniversary of the expiry date and the decision of the arbitrator shall include such increase but nothing in this section prevents the arbitrator from granting increases in the basic wage rates in excess of those established by this section.

Application  
of  
R.S.O. 1980,  
c. 228

**9.** Sections 92, 93, 94, 95, 97, 98, 99 and 100 of the *Labour Relations Act* apply to the parties and to the employees with necessary modifications.

Penalty

**10.**—(1) A person or union who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$1,000;  
or
- (b) if the employer or union, to a fine of not more than \$10,000.

(2) Each day that a person or the union contravenes any provision of this Act constitutes a separate offence. Continued offences

**11.**—(1) No prosecution for an offence under this Act shall be instituted except with the written consent of the Minister. Consent

(2) Section 101 of the *Labour Relations Act* does not apply to a prosecution for an offence under this Act. R.S.O. 1980,  
c. 228,  
s. 101  
not to apply

(3) In a prosecution for an offence under this Act, a copy of a consent purporting to have been signed by the Minister is sufficient evidence of the Minister's consent without proof of the signature. Evidence of consent

**12.** The employer and the union shall assume their own costs of the proceedings under this Act, and the remuneration and expense of the arbitrator shall be shared equally by the employer and the union. Costs

**13.** This Act comes into force on the day it receives Royal Assent and is repealed on the day on which the later of the two collective agreements made under this Act comes into operation. Commence-  
ment

**14.** The short title of this Act is the *Wheel-Trans Labour Dispute Settlement Act, 1988*. Short title









