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LEGISLATIVE ASSEMBLY
OF THE
PROVINCE OF ONTARIO

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

SESSION

APRIL 28, 1987 to JUNE 29, 1987



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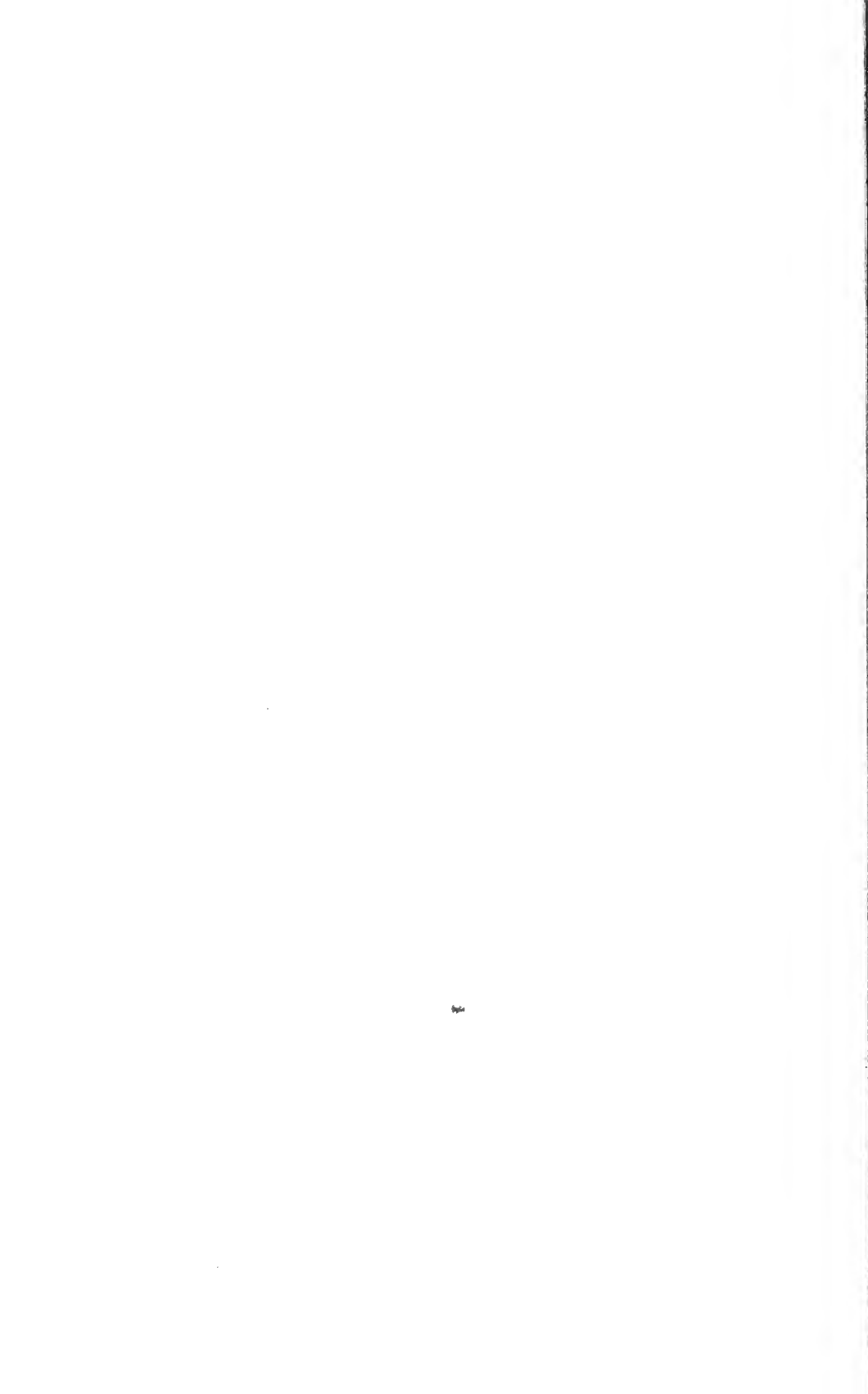
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Bill 154

**An Act to provide
for Pay Equity
in the Broader Public Sector
and in the Private Sector**

The Hon. I. Scott
*Minister responsible for
Women's Issues*

1st Reading November 24th, 1986
2nd Reading
3rd Reading
Royal Assent

Projet de loi 154

**Loi portant établissement
de l'équité salariale
dans le secteur parapublic
et dans le secteur privé**

L'honorable I. Scott
*ministre délégué à la
Condition féminine*

1^{re} lecture 24 novembre 1986
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill provides for the redressing of systemic gender discrimination in compensation for work performed by employees in female job classes in the establishments of all employers in the broader public sector (a defined term) and those employers in the private sector (a defined term) who employ ten or more employees. Among the features of the Bill are the following:

1. Systemic gender discrimination will be identified through comparisons between female job classes (a defined term) and male job classes (a defined term) in terms of relative compensation and in terms of the relative value of the work performed. (Section 3)
2. A criterion for determining value is set out. (Section 4)
3. Tests for the achievement of pay equity are set out. (Section 5)
4. Employers must establish and maintain compensation practices that provide for pay equity. (Section 6)
5. Certain differences in compensation such as those resulting from legitimate seniority plans or red-circling are excluded in determining pay equity. (Section 7)
6. An employer cannot reduce compensation to achieve pay equity. (Section 8)
7. Intimidation of persons who seek enforcement of the Act or who are participating, or may participate, in enforcement proceedings is prohibited. (Section 8)
8. All employers in the broader public sector and those employers in the private sector who employ at least 100 employees will be required to develop and implement pay equity plans. Employers with more than nine and fewer than 100 employees may prepare and implement pay equity plans but are not required to do so. (Parts II and III)
9. Different classes of employers will have different time limits for implementing pay equity. (Clause 12 (2) (e))
10. Provision is made for enriched compensation adjustments for employees in the lowest paid female job classes. (Subsection 12 (3))
11. Each employer will be required to make annual adjustments in rates of compensation equal to at least 1 per cent of the employer's payroll for the preceding year until pay equity is achieved. (Subsections 12 (4) and (5))
12. Pay equity plans bind an employer, the employees of an employer and the bargaining agent, if any, of the employees. (Subsection 12 (8))
13. The employer and the bargaining agent for employees in a bargaining unit will negotiate the pay equity plan for the bargaining unit. (Section 13)
14. The employer will prepare the pay equity plan for employees who are not in a bargaining unit. (Subsection 13 (8) and section 14)
15. Review officers will investigate and attempt to settle pay equity plans where an employer or an employer and a bargaining agent are unable to prepare a pay equity plan by the mandatory posting date (a defined term). Review officers will have the power to settle outstanding matters by order. (Section 15)

NOTES EXPLICATIVES

Le projet de loi a pour objet d'éliminer la discrimination systémique entre les sexes en ce qui concerne la rétribution du travail effectué par les employés des catégories d'emplois à prédominance féminine qui oeuvrent dans les établissements de tous les employeurs du secteur parapublic (terme défini) et dans ceux des employeurs du secteur privé (terme défini) qui ont à leur service dix employés ou plus. Voici certains points saillants du projet de loi :

1. Repérage de la discrimination systémique entre les sexes au moyen de comparaisons établies entre les catégories d'emplois à prédominance féminine (terme défini) et les catégories d'emplois à prédominance masculine (terme défini) en ce qui concerne la rétribution proportionnelle et la valeur proportionnelle du travail effectué. (Article 3)
2. Établissement d'un critère servant à déterminer la valeur du travail. (Article 4)
3. Établissement de méthodes permettant de déterminer si l'équité salariale est atteinte. (Article 5)
4. Obligation pour les employeurs d'établir et de maintenir des pratiques de rétribution assurant l'équité salariale. (Article 6)
5. Exclusion, pour la détermination de l'équité salariale, de certains écarts de rétribution tels ceux qui sont fondés sur des régimes légitimes d'ancienneté ou sur la pratique du «salaire étoilé». (Article 7)
6. Interdiction à l'employeur de diminuer la rétribution afin d'atteindre l'équité salariale. (Article 8)
7. Interdiction d'intimider les personnes qui demandent l'application de la loi, qui participent ou pourraient participer à une instance relative à l'exécution de la loi. (Article 8)
8. Obligation pour tous les employeurs du secteur parapublic, et pour les employeurs du secteur privé qui ont au moins 100 employés à leur service, d'élaborer et de mettre en oeuvre des programmes d'équité salariale. Les employeurs qui ont plus de neuf et moins de 100 employés peuvent élaborer et mettre en oeuvre un programme d'équité salariale, mais ne sont pas obligés de le faire. (Parties II et III)
9. Dates limites différentes selon les différentes catégories d'employeurs pour atteindre l'équité salariale. (Alinéa 12 (2) e))
10. Rajustements plus importants pour les employés des catégories d'emplois à prédominance féminine dont le salaire est le plus bas. (Paragraphe 12 (3))
11. Obligation pour tous les employeurs d'effectuer des rajustements annuels de la rétribution équivalant à au moins 1 pour cent de leur feuille de paie pour l'année précédente, jusqu'à ce que l'équité salariale soit atteinte. (Paragraphe 12 (4) et (5))
12. Les programmes d'équité salariale lient l'employeur, les employés de l'employeur et leur agent négociateur, le cas échéant. (Paragraphe 12 (8))
13. Négociation d'un programme d'équité salariale relié à une unité de négociation entre l'employeur et l'agent négociateur des employés de l'unité de négociation. (Article 13)

16. A pay equity plan shall be deemed to have been approved by the Commission if no objections are filed with the Commission. (Subsections 14 (8) and 15 (5))
17. Small private sector employers will have a transition period before they have to comply with the Act with respect to existing compensation practices in existing establishments (a defined term). (Section 20)
18. The Pay Equity Commission of Ontario is established. It will have the power to deal with objections related to proposed pay equity plans and complaints related to the matters set out in the Act. (Sections 16, 21 and 26)
19. Fines may be imposed for contraventions of the Act or orders of the Commission. (Section 25)
20. Review officers will be appointed to investigate objections and complaints and to monitor the preparation and implementation of pay equity plans. (Subsection 28 (2) and section 33)
21. Provision is made for a review of the Act beginning seven years after the effective date. (Section 36)

14. Élaboration par l'employeur d'un programme d'équité salariale à l'intention des employés qui n'appartiennent pas à une unité de négociation. (Paragraphe 13 (8) et article 14)
15. Des agents de révision mènent des enquêtes et tentent d'amener les parties à accepter un règlement lorsqu'un employeur ou un employeur et un agent négociateur ne peuvent élaborer un programme d'équité salariale à la date d'affichage obligatoire (terme défini). Les agents de révision ont le pouvoir de régler au moyen d'un ordre les questions en souffrance. (Article 15)
16. Approbation réputée d'un plan d'équité salariale par la Commission en l'absence d'oppositions déposées auprès de celle-ci. (Paragraphe 14 (8) et 15 (5))
17. Période de transition accordée aux petits employeurs du secteur privé avant qu'ils ne soient tenus de se conformer à la loi en ce qui concerne les pratiques existantes de rétribution dans leurs établissements (terme défini) existants. (Article 20)
18. Création de la Commission de l'équité salariale de l'Ontario, qui peut traiter des oppositions aux programmes proposés d'équité salariale et des plaintes concernant les questions qui appartiennent à sa compétence. (Articles 16, 21 et 26)
19. Imposition d'amendes pour les contraventions à la loi ou aux ordonnances de la Commission. (Article 25)
20. Nomination d'agents de révision pour enquêter au sujet des oppositions et des plaintes et pour contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale. (Paragraphe 28 (2) et article 33)
21. Examen de la loi sept ans après son entrée en vigueur. (Article 36)

Bill 154**1987**

**An Act to provide for Pay Equity
in the Broader Public Sector
and in the Private Sector**

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Projet de loi 154

1987

**Loi portant établissement de l'équité salariale
dans le secteur parapublic
et dans le secteur privé**

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Preamble

Whereas it is desirable that affirmative action be taken to redress gender discrimination in the compensation of employees employed in female job classes in the broader public sector and in the private sector in Ontario;

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

PART I

General

Definitions

1.—(1) In this Act,

“agent
négociateur”
R.S.O. 1980,
c. 228

“bargaining agent” means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in an establishment and includes an organization representing employees to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such employees;

“secteur
parapublic”
R.S.O. 1980,
c. 418

“broader public sector” means the public sector other than the Crown in right of Ontario, with respect to employees who are public servants within the meaning of the *Public Service Act*, and other than The Niagara Parks Commission, Liquor Control Board of Ontario, Liquor Licence Board, Ontario Housing Corporation, Toronto Area Transit Operating Authority and Workers’ Compensation Board;

“convention
collective”

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commis-
sion”

“Commission” means the Pay Equity Commission of Ontario established by this Act;

“rétribution”

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“date
d’entrée
en vigueur”

“effective date” means the day this Act comes into force;

“employé”

“employee” means a person employed by an employer but does not include a student employed for his or her vacation period;

Attendu qu'il est souhaitable que des mesures concrètes soient prises aux fins d'éliminer la discrimination fondée sur le sexe en matière de rétribution des employés oeuvrant dans des catégories d'emplois à prédominance féminine dans les secteurs parapublic et privé en Ontario;

Préambule

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

Dispositions générales

1 (1) Les définitions qui suivent s'appliquent à la présente loi.

Définitions

«agent de révision» Personne désignée comme agent de révision aux termes du paragraphe 28 (2).

«review officer»

«agent négociateur» S'entend d'un syndicat au sens de la *Loi sur les relations de travail*, en sa qualité d'agent négociateur exclusif aux termes de cette loi à l'égard d'une ou de plusieurs unités de négociation au sein d'un établissement. S'entend en outre d'une organisation qui représente des employés auxquels s'applique la présente loi, si cette organisation est titulaire de droits exclusifs de négociation en vertu d'une autre loi à l'égard de ces employés.

«bargaining agent»
L.R.O. 1980,
chap. 228

«catégorie d'emplois» Les postes qui présentent, au sein d'un établissement, des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution.

«job class»

«catégorie d'emplois à prédominance féminine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance masculine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance masculine» :

«female job class»

- a) d'une catégorie d'emplois dont 60 pour cent ou plus des membres sont des femmes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que la Commission décide de désigner comme catégorie d'emplois à prédominance féminine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner

“employeur” “employer” means an employer in the broader public sector or in the private sector;

“établissement” “establishment” means all of the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under section 13 or decided upon under section 14;

“catégorie d’emplois à prédominance féminine” “female job class” means, except where there has been a decision that a job class is a male job class as described in clause (b) of the definition of “male job class”,

- (a) a job class in which 60 per cent or more of the members are female,
- (b) a job class that a review officer or the Commission decides is a female job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a female job class;

“zone géographique” “geographic division” means,

- (a) a county, territorial district or regional municipality described in the *Territorial Division Act*,
- (b) The Municipality of Metropolitan Toronto,

R.S.O. 1980,
c. 497

and for the purposes of this Act, the Territorial District of Sudbury and The Regional Municipality of Sudbury shall be considered to be one geographic division;

“catégorie d’emplois” “job class” means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule;

“taux de catégorie” “job rate” means the highest rate of compensation for a job class;

“catégorie d’emplois à prédominance masculine” “male job class” means, except where there has been a decision that a job class is a female job class as described in clause (b) of the definition of “female job class”,

- (a) a job class in which 70 per cent or more of the members are male, or
- (b) a job class that a review officer or the Commission decides is a male job class or a job class that the employer, with the agreement of the bargaining

comme catégorie d'emplois à prédominance féminine.

«catégorie d'emplois à prédominance masculine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance féminine» : «male job class»

- a) d'une catégorie d'emplois dont 70 pour cent ou plus des membres sont des hommes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que la Commission décide de désigner comme catégorie d'emplois à prédominance masculine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance masculine.

«Commission» La Commission de l'équité salariale de l'Ontario créée par la présente loi. «Commission»

«convention collective» Convention écrite conclue entre un employeur et un agent négociateur et qui traite des conditions d'emploi. «collective agreement»

«date d'entrée en vigueur» Le jour de l'entrée en vigueur de la présente loi. «effective date»

«employé» Personne employée par un employeur, à l'exception d'un étudiant employé pendant ses vacances. «employee»

«employeur» Employeur du secteur parapublic ou du secteur privé. «employer»

«établissement» Tous les employés d'un employeur employés dans une même zone géographique ou des zones géographiques convenues aux termes de l'article 13 ou déterminées aux termes de l'article 14. «establishment»

«ministre» Le membre du Conseil des ministres à qui est confiée l'application de la présente loi. «Minister»

«programme d'équité salariale» Document décrit à l'article 12. «pay equity plan»

«règlements» Les règlements pris en application de la présente loi. «regulations»

agent, if any, for the employees of the employer, decides is a male job class;

- “ministre” “Minister” means the member of the Executive Council to whom the administration of this Act is assigned;
- “programme d’équité salariale” “pay equity plan” means a document as described in section 12;
- “secteur privé” “private sector” means all of the employers who are not in the public sector;
- “secteur public” “public sector” means all of the employers who are referred to in the Schedule;
- “règlements” “regulations” means the regulations made under this Act;
- “agent de révision” “review officer” means a person designated as a review officer under subsection 28 (2).

Posting (2) Where this Act requires that a document be posted in the work place, the employer shall post a copy of the document in prominent places in each work place for the establishment to which the document relates in such a manner that it may be read by all of the employees in the work place.

Calculation of number of employees (3) If Part II or III applies to an employer, a reference in this Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Ontario by the employer during the twelve-month period preceding the effective date or during the period from the day the first employee commenced employment in Ontario with the employer until the effective date, whichever period is shorter.

- «rétribution» Tous les paiements et avantages versés ou accordés à la personne qui exerce des fonctions lui donnant droit au versement d'une somme fixe ou vérifiable, ou au profit de cette personne. «compensation»
- «secteur parapublic» S'entend du secteur public à l'exception de la Couronne du chef de l'Ontario en ce qui concerne les employés qui sont des fonctionnaires au sens de la *Loi sur la fonction publique*, et à l'exception de la Commission des parcs du Niagara, de la Régie des alcools de l'Ontario, de la Commission des permis de vente d'alcool de l'Ontario, de la Société de logement de l'Ontario, de la Régie des transports en commun de la région de Toronto et de la Commission des accidents du travail. «broader public sector»
L.R.O. 1980, chap. 418
- «secteur privé» Tous les employeurs qui ne font pas partie du secteur public. «private sector»
- «secteur public» Tous les employeurs qui sont mentionnés à l'annexe. «public sector»
- «taux de catégorie» Taux de rétribution le plus élevé relié à une catégorie d'emplois donnée. «job rate»
- «zone géographique» S'entend : «geographic division»
- a) d'un comté, d'un district territorial, d'un territoire ou d'une municipalité régionale au sens de la *Loi sur la division territoriale*;
L.R.O. 1980, chap. 497
 - b) de la municipalité de la communauté urbaine de Toronto.

Pour l'application de la présente loi, le district territorial de Sudbury et la municipalité régionale de Sudbury sont considérés comme formant une seule zone géographique.

(2) Lorsque la présente loi exige l'affichage d'un écrit sur les lieux de travail, l'employeur en affiche un exemplaire dans des endroits bien en vue dans chaque lieu de travail de l'établissement auquel se rapporte l'écrit, de façon que tous les employés puissent le consulter. Affichage

(3) Si les parties II ou III s'appliquent à un employeur, la mention dans la présente loi du nombre d'employés de l'employeur est réputée une mention du nombre moyen d'employés de l'employeur en Ontario au cours de la plus courte des périodes suivantes : soit la période de douze mois qui précède la date d'entrée en vigueur, soit la période qui se situe entre la date du début en Ontario de l'emploi, au service Calcul du nombre d'employés

Decisions re
job classes

(4) In deciding or agreeing whether a job class is a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of work and such other criteria as may be prescribed by the regulations.

Application

2.—(1) This Act applies,

- (a) to all employers in the broader public sector;
- (b) to those employers in the private sector who employ ten or more employees in Ontario; and
- (c) to the employees of employers to whom this Act applies and to the bargaining agents, if any, of the employees.

Idem

(2) If at any time after the coming into force of this Act an employer employs ten or more employees in Ontario, this Act applies with respect to the employer although the number of employees is subsequently reduced to fewer than ten.

Purpose

3.—(1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.

Identification
of systemic
gender dis-
crimination

(2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of relative compensation and in terms of the relative value of the work performed.

Value
determination

4. For the purposes of this Act, the criterion to be applied in determining value of work shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.

Achievement
of pay equity

5.—(1) For the purposes of this Act, pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.

de l'employeur, du premier employé et la date d'entrée en vigueur.

(4) Aux fins de décider si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, ou de convenir de la prédominance d'une catégorie d'emplois, il est tenu compte du sexe des personnes qui exercent traditionnellement ces emplois, des stéréotypes sexuels attachés à des domaines d'emplois, ainsi que des autres critères qui peuvent être prescrits par les règlements.

Détermination
de la catégorie
d'emplois

2 (1) La présente loi s'applique :

Champ
d'application

- a) à tous les employeurs du secteur parapublic;
- b) aux employeurs du secteur privé qui emploient dix employés ou plus en Ontario;
- c) aux employés des employeurs auxquels s'applique la présente loi, ainsi qu'aux agents négociateurs de ces employés, le cas échéant.

(2) Lorsqu'un employeur emploie dix employés ou plus en Ontario après l'entrée en vigueur de la présente loi, celle-ci s'applique à lui, même si le nombre de ses employés est par la suite réduit à moins de dix.

Idem

3 (1) La présente loi a pour objet d'éliminer la discrimination systémique entre les sexes, en ce qui concerne la rétribution du travail effectué par les employés dans les catégories d'emplois à prédominance féminine.

Objet

(2) Le repérage de la discrimination systémique entre les sexes en ce qui concerne la rétribution se fait au moyen de comparaisons établies entre chacune des catégories d'emplois à prédominance féminine et les catégories d'emplois à prédominance masculine dans un même établissement au niveau de la rétribution proportionnelle et de la valeur proportionnelle du travail accompli.

Repérage de
la discrimina-
tion systémi-
que entre les
sexes

4 Pour l'application de la présente loi, le critère qui sert à déterminer la valeur du travail se fonde sur l'habileté, l'effort et la responsabilité qu'exige normalement l'accomplissement de ce travail, ainsi que sur les conditions dans lesquelles il est normalement effectué.

Détermination
de la valeur

5 (1) Pour l'application de la présente loi, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la com-

Équité sala-
riale atteinte

Idem

(2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.

Basis of comparison

(3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job rate for the female job class is at least as great as the job rate for the male job class,

- (a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; and
- (b) with the highest job rate, if the work performed in the male job class is of less value.

Idem

(4) Comparisons required by this Act,

- (a) for job classes inside a bargaining unit, shall be made between job classes in the bargaining unit; and
- (b) for job classes outside any bargaining unit, shall be made between job classes that are outside any bargaining unit.

Idem

(5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of the female job class that is the subject of the comparison, the female job class shall be compared to male job classes throughout the establishment.

paraison est au moins égal au taux de catégorie relié à une catégorie d'emplois à prédominance masculine dans le même établissement, si le travail effectué au niveau des deux catégories est de valeur égale ou comparable.

(2) S'il n'existe aucune catégorie d'emplois à prédominance masculine avec laquelle peut être établie une comparaison pour l'application du paragraphe (1), l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie d'une catégorie d'emplois à prédominance masculine du même établissement qui avait, au moment de la comparaison, un taux de catégorie supérieur, mais qui effectue un travail d'une valeur inférieure à ceux de la catégorie d'emplois à prédominance féminine. Idem

(3) Si une catégorie d'emplois à prédominance féminine dans un établissement et des catégories d'emplois à prédominance masculine dans le même établissement se prêtent à plusieurs comparaisons, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine est au moins égal au taux de catégorie relié à la catégorie d'emplois à prédominance masculine : Fondement
de la
comparaison

- a) qui a le taux de catégorie le plus bas, si le travail effectué dans les deux catégories d'emplois est de valeur égale ou comparable;
- b) qui a le taux de catégorie le plus élevé, si le travail effectué dans la catégorie d'emplois à prédominance masculine est de valeur inférieure.

(4) Les comparaisons exigées par la présente loi sont établies : Idem

- a) entre des catégories d'emplois qui appartiennent à l'unité de négociation, en ce qui concerne les catégories d'emplois appartenant à une unité de négociation;
- b) entre des catégories d'emplois qui n'appartiennent à aucune unité de négociation, en ce qui concerne les catégories d'emplois n'appartenant pas à une unité de négociation.

(5) Lorsque, après l'application du paragraphe (4), il ne se trouve aucune catégorie d'emplois à prédominance masculine dans laquelle s'effectue un travail de valeur égale ou comparable au travail qui s'effectue dans la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison, celle-ci Idem

Pay equity
required

6.—(1) Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

Idem

(2) No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1).

Exclusions
from
determination

7.—(1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

- (a) a formal seniority system that does not discriminate on the basis of gender;
- (b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;
- (c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;
- (d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or
- (e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

Idem

(2) After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in com-

est comparée aux catégories d'emplois à prédominance masculine de l'ensemble de l'établissement.

6 (1) L'employeur établit et maintient des pratiques de rétribution assurant l'équité salariale dans chacun de ses établissements. Équité salariale obligatoire

(2) Il est interdit à l'employeur et à l'agent négociateur de négociier en vue d'obtenir l'établissement ou le maintien de pratiques de rétribution qui, si elles étaient adoptées, entraîneraient une contravention au paragraphe (1). Il leur est également interdit de convenir de telles pratiques. Idem

7 (1) La présente loi n'a pas pour effet d'empêcher un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine, si l'employeur peut démontrer que l'écart résulte : Exceptions

- a) d'un système organisé d'ancienneté exempt de discrimination fondée sur le sexe;
- b) d'un programme d'affectations temporaires de formation ou de perfectionnement des employés dont peuvent se prévaloir également les employés féminins et les employés masculins et qui mène à l'avancement de ceux qui y participent;
- c) d'un régime de rétribution au mérite fondé sur un système organisé d'évaluation du rendement préalablement porté à la connaissance des employés et exempt de discrimination fondée sur le sexe;
- d) de la pratique de gestion du personnel dite du «salaire étoilé» lorsque, à la suite d'un processus non sexiste de réévaluation, un poste a été déclassé et que la rétribution de l'employé a été bloquée ou que toute augmentation de sa rétribution a été suspendue jusqu'à ce que la rétribution reliée au poste déclassé devienne égale ou supérieure à la rétribution de l'employé;
- e) de l'absence de main-d'oeuvre qualifiée qui engendre une inflation temporaire de la rétribution provoquée par la difficulté qu'éprouve l'employeur à recruter des employés satisfaisant aux exigences des postes au sein d'une catégorie d'emplois.

(2) Lorsque l'équité salariale est atteinte dans un établissement, la présente loi n'a pas pour effet d'empêcher des écarts de rétribution entre une catégorie d'emplois à prédominance Idem

pensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

Idem

(3) A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

Idem

(4) A position shall not be designated under subsection (3) if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies to similar full-time work.

Reduction of
compensation
prohibited

8.—(1) An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

Intimidation
prohibited

(2) No employer, employee or bargaining agent and no one acting on behalf of an employer, employee or bargaining agent shall intimidate, coerce or penalize, or discriminate against, a person,

- (a) because the person may participate, or is participating, in a proceeding under this Act;
- (b) because the person has made, or may make, a disclosure required in a proceeding under this Act; or
- (c) because the person is exercising, or may exercise, any right under this Act.

féminine et une catégorie d'emplois à prédominance masculine si l'employeur peut démontrer que l'écart résulte de différences au niveau du pouvoir de négociation.

(3) Aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, il n'est pas nécessaire de tenir compte des postes que l'employeur désigne comme postes qui procurent de l'emploi occasionnel. Les postes ainsi désignés peuvent également être exclus lors des rajustements de la rétribution effectués en vertu d'un programme d'équité salariale. Idem

(4) Un poste n'est pas désigné aux termes du paragraphe (3) si, selon le cas : Idem

- a) la durée du travail est égale ou supérieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps;
- b) le travail est effectué sur une base saisonnière pour le compte du même employeur et dans le cadre du même poste;
- c) le travail est effectué sur une base régulière et continue, quoique durant une période inférieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps.

8 (1) L'employeur ne doit pas diminuer la rétribution payable à un employé ni réduire le taux de rétribution rattaché à un poste afin d'atteindre l'équité salariale. Réduction de la rétribution interdite

(2) Il est interdit à l'employeur, à l'employé, à l'agent négociateur, ainsi qu'à leurs mandataires d'intimider, de contraindre, de pénaliser une personne ou d'exercer une discrimination à son égard pour l'un des motifs suivants : Manoeuvres d'intimidation interdites

- a) elle participe ou pourrait participer à une instance intentée en vertu de la présente loi;
- b) elle a déjà fait ou pourrait faire une divulgation exigée lors d'une instance intentée en vertu de la présente loi;
- c) elle exerce ou pourrait exercer un droit en vertu de la présente loi.

PART II

Implementation: Broader Public Sector
and Large Private Sector Employers

Definition
"date
d'affichage
obligatoire"

- 9.** In this Part, "mandatory posting date" means,
- (a) the first anniversary of the effective date, in respect of employers in the broader public sector;
 - (b) the second anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date;
 - (c) the third anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date;
 - (d) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 19; and
 - (e) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 19.

Application

10.—(1) This Part applies only to employers who have employees on the effective date.

Non-
application

(2) Subject to section 19, this Part does not apply to an employer in the private sector who has fewer than 100 employees on the effective date.

Comparison
of
job classes

11. Before the mandatory posting date, every employer to whom this Part applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

PARTIE II

Mise en oeuvre : employeurs du secteur parapublic et grands employeurs du secteur privé

9 Dans la présente partie, «date d'affichage obligatoire» s'entend : Définition
«mandatory
posting date»

- a) du premier anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur parapublic;
- b) du deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur;
- c) du troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur;
- d) du quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19;
- e) du cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19.

10 (1) La présente partie ne s'applique qu'aux employeurs qui ont des employés à leur service à la date d'entrée en vigueur. Champ
d'application

(2) Sous réserve de l'article 19, la présente partie ne s'applique pas à l'employeur du secteur privé qui a moins de 100 employés à son service à la date d'entrée en vigueur. Exclusion

11 Avant la date d'affichage obligatoire, l'employeur auquel s'applique la présente partie établit des comparaisons, au moyen d'un système non sexiste de comparaison, entre les catégories d'emplois à prédominance féminine de chacun de ses établissements et les catégories d'emplois à prédominance masculine des mêmes établissements aux fins de déterminer si Comparaison
des catégories
d'emplois

Pay equity
plans
required

12.—(1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and, without restricting the generality of the foregoing,

- (a) shall identify the establishment to which the plan applies; and
- (b) shall identify all job classes which formed the basis of the comparisons under section 11.

Idem

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,

- (a) shall describe the gender-neutral comparison system used for the purposes of section 11;
- (b) shall set out the results of the comparisons carried out under section 11;
- (c) shall identify all positions and job classes in which differences in compensation are permitted by subsection 7 (1), (2) or (3) and give the reasons for relying on such subsection;
- (d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under section 11, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
- (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,
 - (i) the second anniversary of the effective date, in respect of employers in the broader public sector,
 - (ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,

l'équité salariale existe à l'égard de chaque catégorie d'emplois à prédominance féminine.

12 (1) Il est élaboré, conformément à la présente partie, des documents connus sous l'appellation de programmes d'équité salariale, visant à assurer l'équité salariale à l'égard des catégories d'emplois à prédominance féminine au sein de chacun des établissements de chaque employeur auquel s'applique la présente partie. Ces programmes comprennent notamment :

Programmes
obligatoires
d'équité
salariale

- a) le repérage de l'établissement visé par le programme;
- b) le repérage de toutes les catégories d'emplois sur lesquelles se fondent les comparaisons visées à l'article 11.

(2) Si un établissement comporte à la fois des catégories d'emplois à prédominance féminine et des catégories d'emplois à prédominance masculine, chaque programme d'équité salariale relatif à l'établissement :

Idem

- a) expose le système non sexiste de comparaison utilisé pour l'application de l'article 11;
- b) énonce les résultats des comparaisons établies aux termes de l'article 11;
- c) repère tous les postes et toutes les catégories d'emplois dans lesquels les paragraphes 7 (1), (2) ou (3) permettent des écarts de rétribution, et donne les motifs du recours à ces paragraphes;
- d) expose, à l'égard de toutes les catégories d'emplois à prédominance féminine où l'équité salariale n'existe pas selon les comparaisons établies aux termes de l'article 11, le mode de rajustement de la rétribution choisi pour atteindre l'équité salariale;
- e) énonce la date à laquelle seront effectués les premiers rajustements de la rétribution en vertu du programme. Cette date ne peut être postérieure :
 - (i) au deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur parapublic,
 - (ii) au troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs

- (iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,
- (iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 19, and
- (v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 19.

Idem

(3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of,

- (a) the job rate required to achieve pay equity; and
- (b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.

Minimum adjustments

(4) The first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2) (e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the twelve-month period following the first adjustments shall be increased by an amount that is not less than the lesser of,

du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur,

- (iii) au quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur,
- (iv) au cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19,
- (v) au sixième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19.

(3) Un programme d'équité salariale prévoit qu'il sera accordé à la catégorie ou aux catégories d'emplois à prédominance féminine qui ont, pendant la période de mise en oeuvre du programme, le taux de catégorie le plus bas, une augmentation du taux de rétribution aux termes du programme qui est supérieure aux augmentations accordées aux termes du programme aux autres catégories d'emplois à prédominance féminine, jusqu'à ce que le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine qui reçoivent l'augmentation supérieure soit égal au moins élevé des taux suivants :

- a) le taux de catégorie nécessaire pour atteindre l'équité salariale;
- b) le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine ayant droit à un rajustement aux termes du programme et dont le taux de catégorie se classe immédiatement au-dessus de celui de la catégorie ou des catégories d'emplois visées.

(4) Les premiers rajustements de la rétribution en vertu d'un programme d'équité salariale sont versables à la date prévue à l'alinéa (2) e) et sont tels que la rétribution combinée payable aux termes de l'ensemble des programmes

Idem

Rajustements
minimaux

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the first adjustments; and
- (b) the amount required to achieve pay equity.

Idem

(5) An employer shall make adjustments in rates of compensation until pay equity is achieved under the pay equity plans of the employer such that during the twelve-month period following each anniversary of the first adjustments the combined compensation payable shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the anniversary; and
- (b) the amount required to achieve pay equity.

Maximum adjustments

(6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless required to do so by an order described in clause 35 (g), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a twelve-month period in an amount greater than 1 per cent of the employer's payroll during the preceding twelve-month period.

Definition
"feuille de paie"

(7) In this section, "payroll" means the total of all wages and salaries payable to the employees in Ontario of the employer.

Pay equity plan binding

(8) A pay equity plan that is approved under this Part binds the employer and the employees to whom the plan applies and their bargaining agent, if any.

Plan to prevail

(9) A pay equity plan that is approved under this Part prevails over all relevant collective agreements and the adjustments to rates of compensation required by the plan shall be deemed to be incorporated into and form part of the relevant collective agreements.

d'équité salariale de l'employeur au cours des douze mois qui suivent les premiers rajustements est majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède les premiers rajustements;
- b) la somme nécessaire pour atteindre l'équité salariale.

(5) L'employeur effectue des rajustements aux taux de rétribution jusqu'à ce que soit atteinte l'équité salariale en vertu des programmes d'équité salariale de l'employeur. Ces rajustements additionnels sont effectués de façon que la rétribution combinée payable au cours de la période de douze mois qui suit chaque anniversaire des premiers rajustements soit majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Idem

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède l'anniversaire;
- b) la somme nécessaire pour atteindre l'équité salariale.

(6) Sauf dans le but d'effectuer des rajustements rétroactifs à la rétribution en vertu d'un programme d'équité salariale ou à moins qu'il y soit tenu aux termes d'une ordonnance visée à l'alinéa 35 g), la présente loi n'a pas pour effet d'obliger un employeur à majorer la rétribution payable aux termes des programmes d'équité salariale de l'employeur au cours d'une période de douze mois d'une somme qui représente plus de 1 pour cent de la feuille de paie de l'employeur relative à la période précédente de douze mois.

Rajustements maximaux

(7) Dans le présent article, «feuille de paie» s'entend de la totalité des salaires et traitements payables aux employés de l'employeur en Ontario.

Définition «payroll»

(8) Le programme d'équité salariale approuvé aux termes de la présente partie lie l'employeur et les employés auxquels il s'applique, ainsi que leur agent négociateur, le cas échéant.

Le programme d'équité salariale lie les parties

(9) Le programme d'équité salariale approuvé aux termes de la présente partie l'emporte sur toute convention collective pertinente. Les rajustements des taux de rétribution qu'exige

Le programme l'emporte

Deemed
compliance

(10) Every employer who prepares and implements a pay equity plan under this Part shall be deemed not to be in contravention of subsection 6 (1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date.

Establish-
ments with
bargaining
units

13.—(1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

Bargaining
unit plans

(2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

- (a) the gender-neutral comparison system used for the purposes of section 11; and
- (b) a pay equity plan for the bargaining unit.

Idem

(3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

Posting
of plan

(4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the work place.

Deemed
approval and
first
adjustments

(5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

le programme sont réputés incorporés aux conventions collectives pertinentes et en faire partie intégrante.

(10) L'employeur qui prépare et met en oeuvre un programme d'équité salariale aux termes de la présente partie est réputé ne pas contrevenir au paragraphe 6 (1) en ce qui concerne les employés visés par le plan ou les plans qui s'appliquent aux employés, mais seulement en ce qui a trait aux pratiques de rétribution qui existaient immédiatement avant la date d'entrée en vigueur.

Conformité
réputée

13 (1) Il doit être élaboré, dans tout établissement où des employés sont représentés par un agent négociateur, un programme d'équité salariale relié à chaque unité de négociation, ainsi qu'un programme d'équité salariale relié à la partie de l'établissement dont les membres n'appartiennent pas à une unité de négociation.

Établissements dotés
d'unités de
négociation

(2) L'employeur et l'agent négociateur d'une unité de négociation négocient de bonne foi et s'efforcent de convenir, avant à la date d'affichage obligatoire :

Programmes
reliés à une
unité de
négociation

- a) du système non sexiste de comparaison utilisé pour l'application de l'article 11;
- b) d'un programme d'équité salariale relié à l'unité de négociation.

(3) Dans le cadre des négociations exigées par le paragraphe (2), l'employeur et l'agent négociateur peuvent, pour les fins du programme d'équité salariale, convenir de ce qui suit :

Idem

- a) que l'établissement de l'employeur comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) L'employeur et l'agent négociateur qui ont convenu d'un programme d'équité salariale y apposent leur signature. À la date d'affichage obligatoire ou antérieurement à celle-ci, l'employeur affiche une copie du programme sur les lieux de travail.

Affichage du
programme

(5) Le programme d'équité salariale qui porte la signature de l'employeur et celle de l'agent négociateur est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

Failure
to agree

(6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

Idem

(7) Subsection (6) does not prevent the bargaining agent from notifying the Commission of a failure to agree on a pay equity plan by the mandatory posting date.

Non-
bargaining
unit plan

(8) An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(9) Subsections 14 (2) to (8) apply to a pay equity plan described in subsection (8).

Establish-
ments
without
bargaining
units

14.—(1) In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(2) For the purposes of a pay equity plan required by this section or subsection 13 (8), the employer may decide,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

Idem

(3) An agreement under section 13 between an employer and a bargaining agent shall not affect any pay equity plan required by this section or subsection 13 (8).

Employee
review

(4) The employees to whom a pay equity plan required by this section or subsection 13 (8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.

Changes

(5) If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.

(6) Si l'employeur et l'agent négociateur n'ont pas convenu d'un programme d'équité salariale à la date d'affichage obligatoire, l'employeur en avise sans délai la Commission.

Absence d'entente

(7) Le paragraphe (6) n'a pas pour effet d'empêcher l'agent négociateur d'aviser la Commission du défaut de convenir d'un programme d'équité salariale à la date d'affichage obligatoire ou antérieurement à celle-ci.

Idem

(8) L'employeur élabore un programme d'équité salariale destiné aux employés de son établissement qui n'appartiennent à aucune des unités de négociation de l'établissement. À la date d'affichage obligatoire ou antérieurement à celle-ci, il affiche une copie du programme sur les lieux de travail.

Programme non relié à une unité de négociation

(9) Les paragraphes 14 (2) à (8) s'appliquent au programme d'équité salariale décrit au paragraphe (8).

Idem

14 (1) L'employeur dont l'établissement ne compte aucun employé représenté par un agent négociateur élabore un programme d'équité salariale à l'égard de son établissement. L'employeur, à la date d'affichage obligatoire ou antérieurement à celle-ci, affiche une copie du programme sur les lieux de travail.

Établissements dépourvus d'unités de négociation

(2) Pour l'application du programme d'équité salariale exigé par le présent article ou par le paragraphe 13 (8), l'employeur peut décider :

Idem

- a) que son établissement comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) L'entente intervenue en vertu de l'article 13 entre l'employeur et l'agent négociateur n'a pas d'incidence sur le programme d'équité salariale exigé par le présent article ou par le paragraphe 13 (8).

Idem

(4) Les employés visés par un programme d'équité salariale exigé par le présent article ou par le paragraphe 13 (8) peuvent examiner le programme et présenter leurs observations à l'employeur jusqu'au quatre-vingt-dixième jour suivant la date d'affichage obligatoire.

Examen par l'employé

(5) L'employeur qui, à la suite des observations reçues au cours de la période d'examen visée au paragraphe (4), est

Modification

- Posting of notice (6) Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the work place a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.
- Objections (7) Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employer under subsection (4).
- Deemed approval and first adjustments (8) If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.
- Investigation by review officer and settlement **15.**—(1) If the Commission,
- (a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 13; or
 - (b) receives a notice of objection under subsection 14 (7),
- a review officer shall investigate the matter and endeavour to effect a settlement.
- Orders by review officer (2) If the review officer is unable to effect a settlement as provided for in subsection (1), he or she shall, by order, decide all outstanding matters.
- Posting of plan (3) Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the work place a copy of the pay equity plan that reflects the settlement or order.
- Objections (4) Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Commission within thirty days of the posting as follows:

d'avis que des modifications au programme d'équité salariale s'imposent, peut y apporter des modifications.

(6) Dans les sept jours qui suivent la fin de la période d'examen visée au paragraphe (4), l'employeur affiche sur les lieux de travail un avis qui indique si le programme d'équité salariale a été modifié ou non aux termes du présent article. Si le programme a été modifié, l'employeur affiche également une copie du programme modifié sur laquelle les modifications sont clairement indiquées.

Affichage
d'un avis

(7) Dans les trente jours de l'affichage concernant un programme d'équité salariale aux termes du paragraphe (6), l'employé ou le groupe d'employés visés par le programme peuvent déposer un avis d'opposition auprès de la Commission, qu'ils aient présenté ou non leurs observations à l'employeur aux termes du paragraphe (4).

Oppositions

(8) S'il n'est déposé aucune opposition à un programme d'équité salariale auprès de la Commission en vertu du paragraphe (7), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

15 (1) Lorsque la Commission :

- a) ou bien est avisée par l'employeur ou l'agent négociateur qu'aucune entente n'est intervenue au sujet du programme d'équité salariale aux termes de l'article 13;
- b) ou bien reçoit l'avis d'opposition visé au paragraphe 14 (7),

Enquête par
l'agent de
révision et
règlement

un agent de révision mène une enquête à ce sujet et tente d'amener les parties à accepter un règlement.

(2) Si l'agent de révision ne peut parvenir à amener les parties à accepter le règlement visé au paragraphe (1), il règle toutes les questions en souffrance au moyen d'un ordre.

Ordre de
l'agent de
révision

(3) Si l'agent de révision amène les parties à accepter un règlement aux termes du paragraphe (1) ou donne un ordre aux termes du paragraphe (2), l'employeur affiche sans délai sur les lieux de travail une copie du programme d'équité salariale qui reflète le règlement ou l'ordre.

Affichage du
programme

(4) Des oppositions au programme d'équité salariale affichés en vertu du paragraphe (3), peuvent être déposées auprès de

Oppositions

1. If the plan relates to a bargaining unit, objections may be filed only if the review officer has made an order under subsection (2) and only the employer or the bargaining agent for the bargaining unit may file objections.
2. If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1) with the agreement of the objector who filed the objection under subsection 14 (7), only an employee or group of employees to whom the plan applies, other than the objector, may file an objection.
3. If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

Deemed approval and first adjustments

(5) If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Commission in accordance with subsection (4), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Idem

(6) Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date.

Hearing before Commission

16.—(1) If the Commission receives a notice of objection under subsection 15 (4), the Commission shall hold a hearing and, in its decision, shall settle the pay equity plan to which the objection relates.

Posting of plan

(2) Forthwith after receiving the Commission's decision, the employer shall post a copy of the decision in the work place and, on the day provided for in the plan, shall make the first adjustments in compensation required to achieve pay equity.

la Commission dans les trente jours de l'affichage, selon les modalités suivantes :

1. Si le programme est relié à une unité de négociation, des oppositions peuvent être déposées seulement si l'agent de révision a donné un ordre aux termes du paragraphe (2). Dans ce cas, seuls l'employeur ou l'agent négociateur de l'unité de négociation peuvent déposer une opposition.
2. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a amené, aux termes du paragraphe (1), les parties à accepter un règlement avec le consentement de l'opposant qui a déposé l'opposition aux termes du paragraphe 14 (7), seuls un employé ou le groupe d'employés visés par le programme, autre que l'opposant, peuvent déposer une opposition.
3. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a donné un ordre aux termes du paragraphe (2), l'employeur, un employé ou un groupe d'employés visés par le programme peuvent déposer une opposition.

(5) Si un agent de révision amène les parties à accepter, aux termes du paragraphe (1), un règlement relatif à un programme d'équité salariale relié à une unité de négociation, ou que, dans tout autre cas, aucune opposition n'a été déposée auprès de la Commission au sujet d'un programme d'équité salariale aux termes du paragraphe (4), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

(6) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

16 (1) Si la Commission reçoit un avis d'opposition en vertu du paragraphe 15 (4), elle tient une audience et règle, dans sa décision, le programme d'équité salariale qui fait l'objet de l'opposition.

Audience
devant la
Commission

(2) Lorsqu'il reçoit la décision de la Commission, l'employeur en affiche sans délai une copie sur les lieux de travail. À la date prévue au programme, il effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Affichage du
programme

Idem

(3) Where adjustments in compensation are made after the day provided for in a pay equity plan, the employer shall make the adjustments retroactive to that date.

PART III

Implementation: Small Private Sector Employers

Application

17. This Part applies only to employers in the private sector who, on the effective date, employ more than nine and fewer than 100 employees.

Pay equity plans

18. An employer to whom this Part applies may establish pay equity plans for any of the employer's establishments.

Posting of notice

19.—(1) An employer who decides to establish a pay equity plan or plans for an establishment, as provided for in section 18, shall give notice of the decision to the bargaining agents, if any, for employees in the establishment and shall post a notice of the decision in the work place.

Application of Part II

(2) Upon the posting of the notice referred to in subsection (1), Part II applies to the establishment to which the notice relates and this Part ceases to apply to the employer with respect to that establishment.

Transition

20.—(1) Notwithstanding subsection 6 (1) or (2), an employer to whom this Part applies may maintain compensation practices that were in existence in the employer's establishment immediately before the effective date,

- (a) until the fifth anniversary of the effective date, if the employer employs at least fifty but fewer than 100 employees on the effective date; and
- (b) until the sixth anniversary of the effective date, if the employer employs at least ten but fewer than fifty employees on the effective date,

and, until the relevant anniversary date, a compensation change that is the same in percentage terms for female job classes and male job classes in the establishment shall be deemed not to be a contravention of those subsections even though the change is different in dollar terms for a female job class than for a male job class.

(3) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date. Idem

PARTIE III

Mise en oeuvre : petits employeurs du secteur privé

17 La présente partie ne s'applique qu'aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont à leur service plus de neuf, mais moins de 100 employés. Champ d'application

18 L'employeur auquel s'applique la présente partie peut établir des programmes d'équité salariale à l'égard de chacun de ses établissements. Programme d'équité salariale

19 (1) L'employeur qui décide d'établir, aux termes de l'article 18, un ou plusieurs programmes d'équité salariale à l'égard de son établissement, avise de sa décision les agents négociateurs des employés de son établissement, le cas échéant, et affiche un avis de cette décision sur les lieux de travail. Affichage de l'avis

(2) Dès que l'employeur affiche l'avis prévu au paragraphe (1), la partie II s'applique à l'établissement visé par l'avis et la présente partie cesse alors de s'appliquer à l'employeur à l'égard de cet établissement. Cas d'application de la partie II

20 (1) Malgré les paragraphes 6 (1) ou (2), l'employeur auquel s'applique la présente partie peut maintenir les pratiques de rétribution qui avaient cours dans son établissement immédiatement avant la date d'entrée en vigueur : Disposition transitoire

- a) jusqu'au cinquième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins cinquante, mais moins de 100 employés à son service à la date d'entrée en vigueur;
- b) jusqu'au sixième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins dix, mais moins de cinquante employés à son service à la date d'entrée en vigueur.

Jusqu'à l'anniversaire pertinent, la modification de la rétribution qui est la même, en termes de pourcentage, à l'égard des catégories d'emplois à prédominance féminine qu'à l'égard des catégories d'emplois à prédominance masculine dans l'établissement, est réputée ne pas contrevenir à ces paragraphes, même si, en termes absolus, la modification qui est faite à l'égard des catégories d'emplois à prédominance féminine dif-

Repeal (2) This Part is repealed on the sixth anniversary of the effective date.

PART IV

Enforcement

Complaints **21.**—(1) Any employer or employee, or the bargaining agent, if any, representing the employee may file a complaint with the Commission complaining that there has been a contravention of this Act, the regulations or an order of the Commission.

Idem (2) Any employee or the bargaining agent, if any, representing the employee may file a complaint with the Commission complaining with respect to a pay equity plan that applies to the employee that,

- (a) the plan is not being implemented according to its terms; or
- (b) because of changed circumstances in the establishment, the plan is not appropriate for the female job class to which the employee belongs.

Combining of complaints (3) The Commission may combine two or more complaints and deal with them in one proceeding if the complaints,

- (a) are made against the same person and bring into question the same or a similar issue; or
- (b) have questions of law or fact in common.

Investigation of complaints **22.**—(1) Subject to subsection (2), when the Commission receives a complaint, a review officer shall investigate the complaint and endeavour to effect a settlement.

Decision to not deal with complaint (2) A review officer may decide that a complaint should not be considered if the review officer is of the opinion that,

- (a) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or

fère de celle qui est faite à l'égard des catégories d'emplois à prédominance masculine.

(2) La présente partie est abrogée le jour du sixième anniversaire de la date d'entrée en vigueur. Abrogation

PARTIE IV

Exécution de la loi

21 (1) Un employeur, un employé ou, le cas échéant, un agent négociateur qui représente l'employé, peuvent déposer auprès de la Commission une plainte signalant qu'il y a eu contravention à la présente loi, aux règlements ou à une ordonnance de la Commission. Plaintes

(2) L'employé ou, le cas échéant, l'agent négociateur qui le représente, peuvent déposer auprès de la Commission, à l'égard du programme d'équité salariale qui vise cet employé, une plainte précisant, selon le cas : Idem

- a) que la mise en oeuvre du programme ne s'effectue pas conformément à ses modalités;
- b) qu'en raison d'un changement de la situation au sein de l'établissement, le programme ne convient pas à la catégorie d'emplois à prédominance féminine à laquelle appartient l'employé.

(3) La Commission peut réunir deux ou plusieurs plaintes et en traiter au cours d'une même instance, si ces plaintes, selon le cas : Réunion de plaintes

- a) sont formulées contre la même personne et se rapportent au même point en litige ou à un point semblable;
- b) soulèvent les mêmes questions de droit ou de fait.

22 (1) Sous réserve du paragraphe (2), un agent de révision mène une enquête concernant la plainte reçue par la Commission et tente d'amener les parties à accepter un règlement. Enquêtes au sujet des plaintes

(2) L'agent de révision peut décider de ne pas examiner la plainte s'il est d'avis que, selon le cas : Décision de ne pas traiter de la plainte

- a) la plainte est futile, frivole, vexatoire ou faite de mauvaise foi;

- (b) the complaint is not within the jurisdiction of the Commission.

Hearing
before
Commission

(3) The review officer shall notify the complainant of his or her decision under subsection (2) and the complainant may request a hearing before the Commission with respect to the decision.

Orders by
review
officers

23.—(1) Where a review officer is of the opinion that a pay equity plan is not being prepared as required by Part II, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

Idem

(2) Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

Idem

(3) Where a review officer is of the opinion that there has been a contravention of subsection 6 (1) or (2), the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to comply with either or both of those subsections.

Idem

(4) An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 9.

Reference to
Commission

(5) Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Commission.

Hearing
before
Commission

(6) An employer or bargaining agent named in an order under this section may request a hearing before the Commission with respect to the order.

Hearings

24.—(1) The Commission shall hold a hearing,

- (a) if a review officer is unable to effect a settlement of a complaint;
- (b) if a request for a hearing, as described in subsection 22 (3) or 23 (6), is received by the Commission; or
- (c) if a review officer refers a matter to the Commission under subsection 23 (5).

b) la plainte n'est pas du ressort de la Commission.

(3) L'agent de révision avise le plaignant de la décision qu'il a prise aux termes du paragraphe (2), et le plaignant peut demander à la Commission de tenir une audience à l'égard de la décision. Audience
devant la
Commission

23 (1) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas en cours d'élaboration tel que l'exige la partie II peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre en vue d'élaborer le programme. Ordres des
agents de
révision

(2) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas mis en oeuvre conformément à ses modalités peut ordonner à l'employeur de prendre les mesures énoncées dans son ordre aux fins de mettre en oeuvre le programme. Idem

(3) L'agent de révision qui est d'avis qu'il y a eu contravention aux paragraphes 6 (1) ou (2) peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre aux fins de se conformer à l'un ou l'autre de ces paragraphes ou aux deux. Idem

(4) Un ordre donné aux termes du paragraphe (1) peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 9. Idem

(5) Si l'employeur ou l'agent négociateur ne se conforment pas à l'ordre donné aux termes du présent article, un agent de révision peut renvoyer la question à la Commission. Renvoi
devant la
Commission

(6) Un employeur ou un agent négociateur nommés dans l'ordre donné aux termes du présent article peuvent demander à la Commission de tenir une audience à cet égard. Audience
devant la
Commission

24 (1) La Commission tient une audience dans les cas suivants : Audiences

- a) si l'agent de révision ne peut amener les parties à accepter un règlement relativement à la plainte;
- b) si la Commission reçoit une demande d'audience prévue aux paragraphes 22 (3) ou 23 (6);
- c) si l'agent de révision renvoie une question devant la Commission aux termes du paragraphe 23 (5).

Commission
orders

(2) The Commission shall decide the issue that is before it for a hearing and, without restricting the generality of the foregoing, the Commission,

- (a) where it finds that an employer or a bargaining agent has failed to comply with Part II, may order that a review officer prepare a pay equity plan for the employer's establishment and that the employer and the bargaining agent, if any, or either of them, pay all of the costs of preparing the plan;
- (b) may confirm, vary or revoke orders of review officers;
- (c) may, for the female job class that is the subject of the complaint or reference, order adjustments in compensation in order to achieve pay equity, where the Commission finds that there has been a contravention of subsection 6 (1);
- (d) may order that the pay equity plan be revised in such manner as the Commission considers appropriate, where it finds that the plan is not appropriate for the female job class that is the subject of the complaint or reference because there has been a change of circumstances in the establishment; and
- (e) may order a party to a proceeding to take such action or refrain from such action as in the opinion of the Commission is required in the circumstances.

Idem

(3) An order under clause (2) (a) may provide that a review officer may retain the services of such experts as the review officer considers necessary to prepare a pay equity plan.

Application
of Part II

(4) Part II, except section 15, applies with necessary modifications to a pay equity plan prepared under clause (2) (a) but,

- (a) the order of the Commission may provide for a mandatory posting date that is later than the one provided in section 9;

(2) La Commission règle la question dont elle est saisie, et peut notamment :

Ordonnances
de la
Commission

- a) enjoindre à l'agent de révision d'élaborer un programme d'équité salariale destiné à l'établissement de l'employeur, lorsqu'elle constate que ce dernier ou l'agent négociateur ne se sont pas conformés à la partie II. Elle peut aussi enjoindre à l'employeur et à l'agent négociateur, le cas échéant, ou à l'un d'eux, d'acquitter la totalité des frais d'élaboration du programme;
- b) confirmer, modifier ou révoquer les ordres des agents de révision;
- c) ordonner, à l'égard de la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi, que des rajustements de la rétribution soient effectués pour atteindre l'équité salariale, lorsqu'elle constate qu'il y a eu contravention au paragraphe 6 (1);
- d) ordonner que le programme d'équité salariale soit révisé de la manière que la Commission estime appropriée lorsqu'elle constate que le programme ne convient pas à la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi en raison d'un changement de la situation au sein de l'établissement;
- e) enjoindre à une partie à l'instance soit de prendre certaines mesures, soit de s'en abstenir, selon ce que la Commission juge nécessaire dans les circonstances.

(3) L'ordonnance prise en vertu de l'alinéa (2) a) peut permettre à l'agent de révision de retenir les services des experts que celui-ci estime nécessaires en vue d'élaborer un programme d'équité salariale.

Idem

(4) À l'exception de l'article 15, la partie II s'applique avec les adaptations nécessaires au programme d'équité salariale élaboré en vertu de l'alinéa (2) a). Toutefois :

Cas d'applica-
tion de la
partie II

- a) l'ordonnance prise par la Commission peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 9;

- (b) the order of the Commission shall not provide for a compensation adjustment date that is different than the relevant date set out in clause 12 (2) (e);
- (c) the review officer shall perform the duties of the employer and the bargaining agent, if any;
- (d) when the review officer posts the plan in the work place as subsection 13 (4) or 14 (6) provides, the employer, the bargaining agent (if the plan relates to a bargaining unit), or any employee or group of employees to whom the plan applies (if the plan does not relate to a bargaining unit) may file an objection with the Commission; and
- (e) an objection under clause (d) shall be dealt with by the Commission under section 16.

Retroactive
compensation
adjustments

(5) An order under clause (2) (c) may be retroactive to the day of the contravention of subsection 6 (1).

Idem

(6) An order under clause (2) (d) may provide that adjustments in compensation resulting from the revision of the pay equity plan be made retroactive to the day of the change in circumstances that gave rise to the order.

Offences and
penalties

25.—(1) Every person who contravenes or fails to comply with this Act or an order of the Commission is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, in the case of an individual, and not more than \$25,000, in any other case.

Parties

(2) If a corporation or bargaining agent contravenes this Act or an order of the Commission, every officer, official or agent thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or bargaining agent has been prosecuted or convicted.

Prosecution
against
bargaining
agent

(3) A prosecution for an offence under this Act may be instituted against a bargaining agent in its own name.

- b) l'ordonnance de la Commission ne prévoit pas une date de rajustement de la rétribution différente de la date pertinente énoncée à l'alinéa 12 (2) e);
- c) l'agent de révision exerce les fonctions de l'employeur et de l'agent négociateur, le cas échéant;
- d) lorsque l'agent de révision affiche le programme sur les lieux de travail comme le prévoient les paragraphes 13 (4) ou 14 (6), l'employeur, l'agent négociateur (si le programme est relié à une unité de négociation) ou un employé ou un groupe d'employés visés par le programme (si le programme n'est pas relié à une unité de négociation) peuvent déposer une opposition auprès de la Commission;
- e) la Commission traite de l'opposition visée à l'alinéa d) aux termes de l'article 16.

(5) L'ordonnance prise aux termes de l'alinéa (2) c) peut avoir un effet rétroactif au jour de la contravention au paragraphe 6 (1). Rajustements rétroactifs de la rétribution

(6) L'ordonnance prise aux termes de l'alinéa (2) d) peut prévoir que les rajustements de la rétribution résultant de la révision du programme d'équité salariale ont un effet rétroactif au jour où s'est produit le changement de situation qui a donné lieu à l'ordonnance. Idem

25 (1) Quiconque contrevient aux dispositions de la présente loi ou d'une ordonnance de la Commission ou ne s'y conforme pas, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$ dans le cas d'une personne physique, et d'au plus 25 000 \$ dans les autres cas. Infractions et peines

(2) Si une personne morale ou un agent négociateur contreviennent à une disposition de la présente loi ou d'une ordonnance de la Commission, le dirigeant, l'employé ou le mandataire qui autorise ou permet la contravention ou y donne son consentement est partie à l'infraction, en est coupable et, sur déclaration de culpabilité, est passible de la peine prévue pour cette infraction, que la personne morale ou l'agent négociateur aient été ou non poursuivis ou déclarés coupables de l'infraction. Parties

(3) Une poursuite relative à une infraction à la présente loi peut être intentée contre l'agent négociateur en tant que tel. Poursuite contre l'agent négociateur

Consent

(4) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Commission.

PART V

Administration

Commission established

26. There is hereby established a commission to be known as the Pay Equity Commission of Ontario.

Composition and appointment

27.—(1) The Commission shall be composed of a presiding officer, one or more deputy presiding officers and as many other members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Alternate presiding officer

(2) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.

Remuneration and expenses

(3) The members of the Commission who are not Crown employees shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.

Resignation of member

(4) Where a member of the Commission resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Commission.

Services of ministries, boards, etc.

(5) In exercising its powers under this Act, the Commission shall, if appropriate, make use of the services and facilities of a ministry, board, commission or agency of the Government of Ontario.

Staff and other assistance

R.S.O. 1980, c. 418

(6) Such persons as are necessary for the proper conduct of the Commission's work may be appointed as employees of the Commission under the *Public Service Act* and the Commission, subject to the approval of Management Board of Cabinet, may engage, under contract, the persons, including professionals and experts, that it considers necessary to exercise its powers and to carry out its duties.

(4) Il ne peut être intenté aucune poursuite relative à une infraction à la présente loi sans le consentement écrit de la Commission. Consentement

PARTIE V

Application de la loi

26 Est créée une commission nommée Commission de l'équité salariale de l'Ontario. Création de la Commission

27 (1) La Commission se compose d'un président, d'un ou de plusieurs vice-présidents, et du nombre d'autres membres répartis en un nombre égal de représentants des employeurs et des employés que le lieutenant-gouverneur en conseil juge approprié. Toutes ces personnes sont nommées par le lieutenant-gouverneur en conseil. Constitution et nomination

(2) Le lieutenant-gouverneur en conseil désigne l'un des vice-présidents comme président suppléant. Cette personne possède tous les pouvoirs du président si ce dernier est absent ou empêché d'agir. Président suppléant

(3) Les membres de la Commission qui ne sont pas des employés de la Couronne reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et, sous réserve de l'approbation du Conseil de gestion du gouvernement, les frais normaux engagés lors de l'exercice de leurs fonctions aux termes de la présente loi. Rémunération et frais

(4) Le membre de la Commission qui démissionne peut toutefois exercer les attributions qu'il aurait continué d'avoir s'il n'avait pas démissionné, en ce qui concerne toute question faisant l'objet d'une instance à laquelle il a participé en tant que membre. Démission d'un membre

(5) Dans l'exercice de ses pouvoirs aux termes de la présente loi, la Commission se prévaut, si cela est approprié, des services et installations des ministères, organismes, commissions ou agences du gouvernement de l'Ontario. Services des ministères, organismes, etc.

(6) Les personnes nécessaires à la conduite efficace des activités de la Commission peuvent être engagées comme employés de la Commission aux termes de la *Loi sur la fonction publique*. La Commission peut, sous réserve de l'approbation du Conseil de gestion du gouvernement, recruter par contrat les personnes qu'elle juge nécessaires à l'exercice de ses attributions, notamment des professionnels et des experts. Personnel et autres services
L.R.O. 1980, chap. 418

Powers and
duties of
Commission

28.—(1) The Commission may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act or the regulations.

Idem

(2) Without limiting the generality of subsection (1), the Commission,

- (a) shall designate one or more of its employees as review officers for the purposes of this Act;
- (b) may decide in an order made under subsection 16 (1) or clause 24 (2) (a) that any job class is a female job class or a male job class;
- (c) may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it;
- (d) may require that any person seeking a determination of any matter by the Commission shall give written notice, in such form and manner as the Commission specifies, to the persons that the Commission specifies; and
- (e) may conduct research and produce papers related to pay equity and related subjects and conduct public education programs related to pay equity and related subjects.

Panels

(3) The presiding officer may establish panels of the Commission and it may sit in two or more panels simultaneously so long as a quorum of the Commission is present on each panel.

Quorum

(4) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Commission.

Decisions

(5) The decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.

Exclusive
jurisdiction
of
Commission

29.—(1) The Commission has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Commission thereon is final and conclusive for all purposes.

28 (1) La Commission peut exercer les pouvoirs et doit accomplir les obligations qui lui sont conférés par la présente loi ou par les règlements. Attributions de la Commission

(2) La Commission possède notamment les attributions suivantes : Idem

- a) elle désigne un ou plusieurs de ses employés comme agent de révision pour l'application de la présente loi;
- b) elle peut décider, au moyen d'une ordonnance prise aux termes du paragraphe 16 (1) ou de l'alinéa 24 (2) a), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- c) elle peut établir des règles concernant la conduite et la gestion de ses affaires, ainsi que des règles de pratique et de procédure à suivre relativement aux questions dont elle est saisie;
- d) elle peut exiger que la personne qui lui demande de prendre une décision relative à une question quelconque en avise par écrit, de la manière que précise la Commission, les personnes qu'elle précise;
- e) elle peut effectuer des recherches et préparer des rapports concernant l'équité salariale et des questions connexes. Elle peut instituer à l'intention du public des programmes d'information concernant ces sujets.

(3) Le président peut former des comités de la Commission, qui peut ainsi siéger simultanément en plusieurs comités, pourvu que le quorum de la Commission soit atteint dans chacun d'eux. Comités

(4) Le président ou un vice-président, un membre représentant les employeurs et un membre représentant les employés constituent le quorum et peuvent exercer tous les pouvoirs de la Commission. Quorum

(5) La décision de la majorité des membres de la Commission présents qui constituent le quorum est la décision de la Commission. En cas de partage, le président ou le vice-président a voix prépondérante. Décisions

29 (1) La Commission a compétence exclusive pour exercer les pouvoirs que lui confère la présente loi et trancher les Compétence exclusive de la Commission

Reconsideration of decisions, etc.

(2) The Commission may at any time, if it considers it advisable to do so, reconsider a decision or order made by it and vary or revoke the decision or order.

Testimony in civil proceedings

30. Except with the consent of the Commission, no member of the Commission, nor any of its employees nor any other person whose services have been contracted for by the Commission, shall be required to give testimony in any civil proceeding or in any proceeding before the Commission or any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Annual report

31. The Commission shall make an annual report of its activities and affairs to the Minister not later than the 30th day of June in each year and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Parties to proceedings

32.—(1) Where a hearing is held before the Commission or where a review officer investigates for the purposes of effecting a settlement of an objection or complaint, the parties to the proceeding are,

- (a) the employer;
- (b) the objector or complainant; and
- (c) the bargaining agent (if the pay equity plan relates to a bargaining unit) or the employees to whom the plan relates (if the plan does not relate to a bargaining unit).

Notice

(2) Where the Commission or a review officer requires that a notice be given by the employer to employees, the employer shall post the notice in the work place and such notice shall be deemed to have been sufficiently given to all employees in the work place when it is so posted.

Representation

(3) An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Commission or before a review officer.

Idem

(4) Where an employee or group of employees advises the Commission in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Commission or review officer and not the employee or group of employees.

questions de fait ou de droit soulevées à l'occasion d'une question dont elle est saisie. Ses décisions et les mesures qu'elle prend sont définitives et ont à toutes fins force de chose jugée.

(2) La Commission peut, chaque fois qu'elle le juge à propos, examiner de nouveau, modifier ou annuler ses propres décisions et ordonnances.

Nouvel
examen des
décisions et
ordonnances

30 Sauf si la Commission y consent, ses membres, ses employés et les personnes dont elle a retenu les services par contrat ne peuvent pas être contraints à témoigner lors d'une instance civile ou devant la Commission ou toute autre commission, en ce qui concerne les renseignements obtenus dans l'accomplissement de leurs devoirs ou dans le cadre de leurs fonctions aux termes de la présente loi.

Témoignages
lors d'instan-
ces civiles

31 La Commission présente au ministre, au plus tard le 30 juin de chaque année, un rapport annuel sur ses activités et ses affaires. Le ministre le dépose devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Rapport
annuel

32 (1) Lorsque la Commission tient une audience ou qu'un agent de révision mène une enquête en vue d'amener les parties à accepter un règlement relativement à une opposition ou à une plainte, les parties à l'instance sont les suivantes :

Parties à
l'instance

- a) l'employeur;
- b) l'opposant ou le plaignant;
- c) l'agent négociateur (si le programme d'équité salariale est relié à une unité de négociation) ou les employés visés par le programme (si celui-ci n'est pas relié à une unité de négociation).

(2) Lorsque la Commission ou l'agent de révision exige que l'employeur donne un avis à ses employés, celui-ci affiche l'avis sur les lieux de travail, et l'avis ainsi affiché est réputé suffisant à l'égard de tous les employés du lieu de travail.

Avis

(3) Un employé ou un groupe d'employés peuvent désigner une personne ou une organisation comme leur mandataire devant la Commission ou l'agent de révision.

Représenta-
tion

(4) Lorsqu'un employé ou un groupe d'employés avisent par écrit la Commission de leur désir de garder l'anonymat, leur mandataire devient à leur place la partie à l'instance devant la Commission ou l'agent de révision.

Idem

Idem (5) Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part IV.

Review officers, duties **33.**—(1) Review officers shall monitor the preparation and implementation of pay equity plans, investigate objections and complaints filed with the Commission and shall attempt to effect settlements or take such other action as is set out in this Act or in an order of the Commission.

Powers (2) A review officer, for the purpose of carrying out his or her duties,

- (a) may enter any place at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination; and
- (e) may provide in an order made under subsection 15 (2) or 23 (1) that any job class is a female job class or a male job class.

Non-application of R.S.O. 1980, c. 484 (3) The *Statutory Powers Procedure Act* does not apply to a review officer and he or she is not required to hold a hearing before making an order authorized by this Act.

Entry to dwellings **34.**—(1) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

(5) Lorsque le paragraphe (4) s'applique, le mandataire peut, en son nom, prendre toutes les mesures qu'un employé peut prendre aux termes de la présente loi. Il peut notamment déposer une opposition en vertu de la partie II et déposer une plainte en vertu de la partie IV. Idem

33 (1) Il incombe aux agents de révision de contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale et de mener des enquêtes au sujet des oppositions et des plaintes qui ont été déposées auprès de la Commission. Il leur incombe également de tenter d'amener les parties à accepter un règlement ou de prendre toute autre mesure prévue par la présente loi ou par une ordonnance de la Commission. Fonctions de l'agent de révision

(2) Dans l'exercice de ses fonctions, l'agent de révision peut : Pouvoirs

- a) à une heure raisonnable, pénétrer dans un endroit quelconque;
- b) exiger la production, à des fins d'inspection, de documents ou d'objets qui peuvent être reliés à l'exercice de ses fonctions;
- c) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent, les documents ou les objets produits à la suite de la demande formulée en vertu de l'alinéa b), aux fins d'en tirer des copies ou des extraits, après quoi ils sont promptement retournés à la personne qui les a produits;
- d) interroger quiconque sur des questions qui sont ou peuvent être reliées à l'exercice de ses fonctions, sous réserve du droit de cette personne à la présence d'un avocat ou d'un autre représentant lors de l'interrogatoire;
- e) stipuler, dans un ordre donné aux termes des paragraphes 15 (2) ou 23 (1), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) La *Loi sur l'exercice des compétences légales* ne s'applique pas à un agent de révision, et celui-ci n'est pas obligé de tenir une audience avant de donner un ordre autorisé par la présente loi. Non-application du chap. 484 des L.R.O. de 1980

34 (1) Le pouvoir accordé par la présente loi de pénétrer dans un endroit qui sert de logement, ne peut être exercé sans Accès à un logement

Warrant for
search

(2) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Warrant for
entry

(3) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

Execution
and
expiry of
warrant

(4) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(5) No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

Idem

(6) Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

Admissibility
of copies

(7) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

la permission de l'occupant, sauf en vertu d'un mandat délivré aux termes du présent article.

(2) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves à l'agent de révision dans l'exercice de ses fonctions aux termes de la présente loi, peut délivrer un mandat de perquisition rédigé selon la formule prescrite. Le mandat autorise l'agent de révision qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi elles sont promptement retournées à cet endroit.

Mandat de perquisition

(3) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un agent de révision, dans l'exercice de ses fonctions en vertu de la présente loi, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut délivrer un mandat rédigé selon la formule prescrite, autorisant l'agent de révision qui y est nommé à pénétrer dans le logement.

Mandat pour pénétrer dans un endroit

(4) Le mandat délivré aux termes du présent article :

Exécution et caducité du mandat

- a) précise les jours et les heures pendant lesquels il peut être exécuté;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de sa délivrance.

(5) Nul ne doit entraver ni gêner un agent de révision dans l'exécution d'un mandat ni d'une autre façon l'empêcher d'exercer ses fonctions aux termes de la présente loi.

Interdiction d'entraver

(6) Sauf si un mandat a été délivré aux termes du paragraphe (2), le paragraphe (5) n'est pas enfreint par le refus d'une personne de produire des documents ou des objets.

Idem

(7) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité des copies

PART VI

Regulations and Miscellaneous

- Regulations **35.** The Lieutenant Governor in Council may make regulations,
- (a) prescribing forms and notices and providing for their use;
 - (b) prescribing methods for determining the historical incumbency of a job class;
 - (c) prescribing criteria that shall be taken into account in deciding whether a job class is a female job class or a male job class;
 - (d) prescribing the method of valuing any form of compensation;
 - (e) prescribing criteria that shall be taken into account in determining whether work performed in two job classes is of equal or comparable value;
 - (f) prescribing criteria that shall be taken into account in deciding whether or not a difference in compensation between a female job class and a male job class is a difference that is permitted by subsection 7 (1) or (2);
 - (g) permitting the Commission, on the application of an employer and in accordance with such criteria as may be prescribed in the regulations, to change the mandatory posting date and the dates for adjustments in compensation to dates later than those set out in Part II and to vary the minimum adjustments in compensation required by that Part, subject to such conditions as the Commission may impose in its order granting the application;
 - (h) adding to the Appendix to the Schedule any person or class of persons or any agency, authority, board, commission, corporation or organization of any kind and providing that the mandatory posting date for an entity so added shall be such date as is set out in the regulations.

PARTIE VI

Règlements et dispositions diverses

35 Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) prescrire des formules et des avis, et prévoir les modalités de leur emploi;
- b) prescrire les méthodes à utiliser pour déterminer le sexe des personnes qui occupent traditionnellement les postes d'une catégorie d'emplois;
- c) prescrire des critères dont il est tenu compte aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- d) prescrire la méthode à utiliser pour déterminer la valeur de toute forme de rétribution;
- e) prescrire des critères dont il est tenu compte aux fins de déterminer si le travail effectué dans deux catégories d'emplois est de valeur égale ou comparable;
- f) prescrire des critères dont il est tenu compte aux fins de déterminer si un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine est un écart permis par les paragraphes 7 (1) ou (2);
- g) permettre à la Commission, à la demande d'un employeur et conformément aux critères qui peuvent être prescrits dans les règlements, de reporter la date d'affichage obligatoire et les dates des rajustements de la rétribution à des dates postérieures à celles que prévoit la partie II, ainsi que de modifier les rajustements minimaux de la rétribution exigés par cette partie, aux conditions que la Commission peut imposer dans l'ordonnance par laquelle elle consent à la demande;
- h) ajouter à l'appendice de l'annexe une personne, une catégorie de personnes ou un organisme, un office, un conseil, une commission, une personne morale ou une organisation quelconque, et prévoir que la

Review of
Act

36.—(1) Seven years after the effective date, the Lieutenant Governor in Council shall appoint a person who shall undertake a comprehensive review of this Act and its operation.

Report to
Minister

(2) The person appointed under subsection (1) shall prepare a report on his or her findings and shall submit the report to the Minister.

Idem

(3) The Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Moneys

37. The moneys required for the purposes of this Act by the Crown in right of Ontario shall, until the 31st day of March, 1987, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Crown bound

38. This Act binds the Crown in right of Ontario.

Commence-
ment

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

Short title

40. The short title of this Act is the *Pay Equity Act, 1987*.

date d'affichage obligatoire de ces derniers est celle qui figure aux règlements.

36 (1) Sept ans après la date d'entrée en vigueur, le lieutenant-gouverneur en conseil nomme une personne qui procède à l'examen global de la loi et des modalités de son application. Examen de la loi

(2) La personne nommée aux termes du paragraphe (1) rédige un rapport qui énonce ses conclusions et le présente au ministre. Rapport au ministre

(3) Le ministre dépose le rapport devant l'Assemblée si elle siège, sinon il le fait à la session suivante. Idem

37 Les sommes d'argent nécessaires à la Couronne du chef de l'Ontario pour l'application de la présente loi sont prélevées, jusqu'au 31 mars 1987, sur le Fonds du revenu consolidé. Après cette date, ces sommes sont prélevées sur les sommes affectées à cette fin par la Législature. Sommes d'argent

38 La présente loi lie la Couronne du chef de l'Ontario. La Couronne est liée

39 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

40 Le titre abrégé de la présente loi est *Loi de 1987 sur l'équité salariale*. Titre abrégé

SCHEDULE

1. The public sector in Ontario consists of,

- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
- R.S.O. 1980,
c. 303 (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario;
- R.S.O. 1980,
c. 129 (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown;
- R.S.O. 1980,
cc. 410, 389,
79, 391 (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*;
- (e) every corporation with share capital, at least 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- 1983, c. 10 (g) every board of health under the *Health Promotion and Protection Act, 1983*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality;
- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Assembly, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the Appendix to this Schedule or added to the Appendix by the regulations made under this Act.

ANNEXE

1 Le secteur public en Ontario se compose des éléments suivants :

- a) la Couronne du chef de l'Ontario, les organismes qui en relèvent, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont la majorité des administrateurs, des membres ou des dirigeants sont nommés ou choisis par le lieutenant-gouverneur en conseil ou par un membre du Conseil des ministres ou avec leur approbation;
- b) les municipalités de l'Ontario, les conseils locaux au sens de la *Loi sur les affaires municipales*, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont les membres ou les dirigeants sont nommés ou choisis par le conseil d'une municipalité de l'Ontario ou avec leur approbation; L.R.O. 1980,
chap. 303
- c) les conseils au sens de la *Loi sur l'éducation*, ainsi que les collèges, les universités et les établissements d'enseignement postsecondaire de l'Ontario qui reçoivent la majeure partie de leur capital ou de leurs fonds annuels de fonctionnement de la Couronne; L.R.O. 1980,
chap. 129
- d) les hôpitaux dont le nom figure à l'annexe du Règlement 863 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur les hôpitaux publics*, les hôpitaux privés exploités aux termes d'un permis délivré en vertu de la *Loi sur les hôpitaux privés*, les hôpitaux établis ou agréés par le lieutenant-gouverneur en conseil à titre d'hôpitaux psychiatriques communautaires en vertu de la *Loi sur les hôpitaux psychiatriques communautaires*, ainsi que les maisons de santé titulaires d'un permis délivré par le lieutenant-gouverneur en conseil en vertu de la *Loi sur les maisons de santé*; L.R.O. 1980,
chap. 410,
389, 79, 391
- e) les personnes morales disposant d'un capital-actions dont au moins 90 pour cent des actions émises sont détenues à titre bénéficiaire par un ou plusieurs employeurs visés aux alinéas a) à d) ou pour le compte de ceux-ci, ainsi que les filiales en propriété exclusive de ces personnes morales;
- f) les personnes morales sans capital-actions dont la majorité des membres ou des dirigeants sont nommés ou choisis par un ou plusieurs des employeurs visés aux alinéas a) à d) ou avec leur approbation, ou en sont membres, ainsi que les filiales en propriété exclusive de ces personnes morales;
- g) les conseils de santé aux termes de la *Loi de 1983 sur la protection et la promotion de la santé*, ainsi que les conseils de santé aux termes d'une loi de la Législature qui crée ou maintient une municipalité régionale; 1983,
chap. 10
- h) le Bureau du lieutenant-gouverneur de l'Ontario et celui de l'Assemblée, les membres de l'Assemblée, le Bureau de l'ombudsman et celui du vérificateur provincial;
- i) les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes et les catégories de ceux-ci qui figurent dans l'appendice à la présente annexe ou qui sont ajoutés à l'appendice au moyen de règlements pris en application de la présente loi.

APPENDIX**MINISTRY OF AGRICULTURE AND FOOD**

1. Ontario Dairy Herd Improvement Corporation.

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens

MINISTRY OF COLLEGES AND UNIVERSITIES

1. Collège dominicain de philosophie et de théologie.
2. Knox College.
3. McMaster Divinity College.
4. Queen's Theological College.
5. Regis College.
6. St. Augustine's Seminary.
7. St. Michael's College.
8. St. Paul University.
9. St. Paul's United College.
10. St. Peter's Seminary.
11. Trinity College.
12. Victoria College.
13. Waterloo Lutheran Seminary.
14. Wycliffe College.

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
 - (a) children's residences operating under the *Child and Family Services Act, 1984* (c. 55);
 - (b) homes for the aged and rest homes operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (c) counselling services, special assistance and staff training services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);

APPENDICE**MINISTÈRE DE L'AGRICULTURE ET DE L'ALIMENTATION**

1. Ontario Dairy Herd Improvement Corporation.

MINISTÈRE DES AFFAIRES CIVIQUES ET CULTURELLES

1. Musée des beaux-arts de l'Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTÈRE DES COLLÈGES ET UNIVERSITÉS

1. Collège dominicain de philosophie et de théologie.
2. Knox College.
3. McMaster Divinity College.
4. Queen's Theological College.
5. Regis College.
6. St. Augustine's Seminary.
7. St. Michael's College.
8. Université Saint-Paul.
9. St. Paul's United College.
10. St. Peter's Seminary.
11. Trinity College.
12. Victoria College.
13. Waterloo Lutheran Seminary.
14. Wycliffe College.

MINISTÈRE DES SERVICES SOCIAUX ET COMMUNAUTAIRES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) les foyers pour enfants qui fonctionnent en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55);
- b) les foyers pour personnes âgées et les maisons de repos qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- c) les services de consultation, d'aide spéciale et de formation du personnel qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);

- (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (e) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
- (f) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;
- (g) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (h) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (i) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
- (j) nursing services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
- (k) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (l) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
- (m) homes for retarded persons approved under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
- (n) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
- (o) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
- (p) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (q) custody and detention facilities, probation and after-care services, residential services and supervisory services to children on probation under agreement with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273).

- d) les services de consultation qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- e) les centres d'accueil qui fournissent des services qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- f) des programmes d'adaptation au travail en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188) qui sont achetés par des municipalités ou par le ministère des Services sociaux et communautaires;
- g) des services d'appoint pour les personnes atteintes d'un handicap physique qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- h) des services de réadaptation professionnelle financés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- i) des foyers annexes qui fonctionnent ou qui sont financés en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- j) des services de soins infirmiers qui sont achetés ou financés en vertu de la *Loi sur les services d'aides familiales et d'infirmières visiteuses* (L.R.O. 1980, chap. 200);
- k) des ateliers établis en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- l) des services financés en vertu de la *Loi sur les services aux déficients mentaux* (L.R.O. 1980, chap. 118);
- m) des foyers pour déficients mentaux agréés en vertu de la *Loi sur les foyers pour déficients mentaux* (L.R.O. 1980, chap. 201);
- n) des garderies dont le fonctionnement est assuré par des personnes morales ou des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111) qui reçoivent des subventions directes du ministère des Services sociaux et communautaires;
- o) des garderies et des sociétés de garde d'enfants en maisons privées qui fournissent des services et qui sont financées aux termes d'ententes conclues avec des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111);
- p) des services de consultation en matière de crédit qui reçoivent une aide financière aux termes d'ententes conclues avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- q) des installations de garde et de détention, des services de probation et des services aux libérés, des services en établissement et des services de supervision aux enfants en probation aux termes d'une entente conclue avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273).

2. Societies within the meaning of the *Child and Family Services Act, 1984* (c. 55) and agencies from whom such societies purchase child care services.

3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).

4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).

5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,

- (a) assistance to witnesses, victims of crime or disabled persons;
- (b) educational, employment search, medical or promotional services;
- (c) supervision of inmates, parolees, probationers or persons accused of crime;
- (d) community residential services.

MINISTRY OF EDUCATION

- 1. Centre franco-ontarien de ressources pédagogiques.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Laboratory and Specimen Collection Centre Licensing Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Ministry of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or a facility which, by arrangement with any such home care facility,

2 Les sociétés au sens de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ainsi que les agences auprès desquelles ces sociétés achètent des services de soins aux enfants.

3 Les personnes morales qui assurent le fonctionnement d'établissements de bienfaisance agréés en vertu de la *Loi sur les établissements de bienfaisance* (L.R.O. 1980, chap. 64).

4 Les conseils de gestion qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203).

5 Les commissions de district pour l'administration de l'aide sociale fonctionnant en vertu de la *Loi sur les commissions de district pour l'administration de l'aide sociale* (L.R.O. 1980, chap. 122).

MINISTÈRE DES SERVICES CORRECTIONNELS

1 Les organismes, conseils, commissions, personnes ou sociétés en nom collectif qui fournissent, grâce au financement du ministère des Services correctionnels, les services suivants :

- a) des services d'aide aux témoins, aux victimes d'actes criminels ou aux personnes handicapées;
- b) des services d'enseignement, de recherche d'emploi, des services médicaux ou de promotion;
- c) la surveillance de détenus, de personnes en liberté conditionnelle, de probationnaires ou de personnes accusées d'un acte criminel;
- d) des services de placement en établissement communautaire.

MINISTÈRE DE L'ÉDUCATION

1 Centre franco-ontarien de ressources pédagogiques.

MINISTÈRE DE LA SANTÉ

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisation de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) un service d'ambulance, aux termes d'un permis délivré en vertu de la *Loi sur les services d'ambulance* (L.R.O. 1980, chap. 20);
- b) une maison de soins infirmiers, aux termes d'un permis délivré en vertu de la *Loi sur les maisons de soins infirmiers* (L.R.O. 1980, chap. 320);
- c) un laboratoire médical ou un centre de prélèvements, aux termes d'un permis délivré en vertu de la *Loi autorisant des laboratoires médicaux et des centres de prélèvements* (L.R.O. 1980, chap. 409);
- d) un établissement psychiatrique au sens de la *Loi sur la santé mentale* (L.R.O. 1980, chap. 262), dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- e) un foyer de soins spéciaux ouvert, agréé ou autorisé en vertu de la *Loi sur les foyers de soins spéciaux* (L.R.O. 1980, chap. 202);
- f) un établissement de soins à domicile au sens du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la

- (i) supplies nursing, physiotherapy, occupational therapy or speech therapy services that are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
- (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
 - (h) a detoxification centre the operation of which is funded in whole or in part by the Ministry of Health;
 - (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Ministry of Health;
 - (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Ministry of Health.
2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).
 3. A laundry that is operated exclusively for one or more than one hospital.
 4. Hospital Food Services—Ontario Inc.
 5. Toronto District Heating Corporation.
 6. Addiction Research Foundation.
 7. The operations in Ontario of the Canadian Red Cross Society, other than the provision by the society of home support services for the elderly and homemaking services.
 8. The Hospital Council of Metropolitan Toronto.
 9. The Hospital Medical Records Institute.
 10. The Ontario Cancer Institute.
 11. The Ontario Cancer Treatment and Research Foundation.
 12. The Ontario Mental Health Foundation.
 13. The Toronto Institute of Medical Technology.

Loi sur l'assurance-maladie (L.R.O. 1980, chap. 197) ou un établissement qui, aux termes d'une entente avec l'établissement de soins à domicile en question, répond aux conditions suivantes :

- (i) fournit des services de soins infirmiers, des services de physiothérapie, d'ergothérapie ou d'orthophonie qui sont des services de soins à domicile assurés aux termes de l'article 44 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197),
 - (ii) a droit au paiement, en contrepartie ou à l'égard de la fourniture des services en question, de frais qui lui sont versés par l'établissement des services à domicile en question;
- g) un centre de rééducation ou un centre pour enfants infirmes qui figure sur la liste de l'Annexe 10 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197);
 - h) un centre de désintoxication dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
 - i) un service communautaire de santé mentale aux adultes dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, aux termes d'une entente conclue par écrit;
 - j) un service de placement dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, conformément à une «Entente de service de coordination des placements» ou d'une autre entente conclue par écrit.
- 2 Un conseil régional de santé établi en vertu de la *Loi sur le ministère de la Santé* (L.R.O. 1980, chap. 280).
- 3 Une blanchisserie qui est exploitée exclusivement aux fins d'un hôpital ou plus.
- 4 Services alimentaires hospitaliers—Ontario Inc.
- 5 Toronto District Heating Corporation.
- 6 Fondation de la recherche sur la toxicomanie.
- 7 Les activités en Ontario de la Société canadienne de la Croix-Rouge, autres que la fourniture de services d'appoint à domicile pour les personnes âgées et de services d'aides familiales.
- 8 The Hospital Council of Metropolitan Toronto.
- 9 The Hospital Medical Records Institute.
- 10 The Ontario Cancer Institute.
- 11 The Ontario Cancer Treatment and Research Foundation.
- 12 The Ontario Mental Health Foundation.
- 13 The Toronto Institute of Medical Technology.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

1. Metropolitan Toronto Convention Centre.

MINISTRY OF MUNICIPAL AFFAIRS

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
 - (a) the collection, removal and disposal of garbage and other refuse for a municipality;
 - (b) the operation and maintenance of buses for the conveyance of passengers under an agreement with a municipality.

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission.

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board.

**MINISTÈRE DE L'INDUSTRIE, DU COMMERCE ET DE LA
TECHNOLOGIE**

1 Metropolitan Toronto Convention Centre.

MINISTÈRE DES AFFAIRES MUNICIPALES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) la collecte, l'enlèvement et l'élimination des ordures ménagères et d'autres déchets pour le compte d'une municipalité;
- b) le maintien et l'exploitation d'autobus pour le transport de passagers aux termes d'une entente conclue avec une municipalité.

MINISTÈRE DES RICHESSES NATURELLES

1 Les offices de protection de la nature créés en vertu de la *Loi sur les offices de protection de la nature* (L.R.O. 1980, chap. 85).

MINISTÈRE DU TOURISME ET DES LOISIRS

1 St. Clair Parkway Commission.

MINISTÈRE DU TRÉSOR ET DE L'ÉCONOMIE

1 La Commission du régime de retraite des employés municipaux de l'Ontario.







Bill 154

An Act to provide for Pay Equity

The Hon. I. Scott
*Minister responsible for
Women's Issues*

1st Reading November 24th, 1986
2nd Reading February 3rd, 1987
3rd Reading
Royal Assent

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

Projet de loi 154

Loi portant établissement de l'équité salariale

L'honorable I. Scott
*ministre délégué à la
Condition féminine*

1^{re} lecture 24 novembre 1986
2^e lecture 3 février 1987
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le
Comité de l'administration de la justice)*

EXPLANATORY NOTES

The Bill provides for the redressing of systemic gender discrimination in compensation for work performed by employees in female job classes in the establishments of all employers in the public sector (a defined term) and those employers in the private sector (a defined term) who employ ten or more employees. Among the features of the Bill are the following:

1. Systemic gender discrimination will be identified through comparisons between female job classes (a defined term) and male job classes (a defined term) in terms of compensation and in terms of the value of the work performed. (Section 4)
2. A criterion for determining value is set out. (Section 5)
3. Tests for the achievement of pay equity are set out. (Section 6)
4. Employers must establish and maintain compensation practices that provide for pay equity. (Section 7)
5. Certain differences in compensation such as those resulting from legitimate seniority plans or red-circling are excluded in determining pay equity. (Section 8)
6. An employer cannot reduce compensation to achieve pay equity. (Subsection 9 (1))
7. Intimidation of persons who seek enforcement of the Act or who are participating, or may participate, in enforcement proceedings is prohibited. (Subsection 9 (2))
8. All employers in the public sector and those employers in the private sector who employ at least 100 employees will be required to develop and implement pay equity plans. Employers in the private sector with more than nine and fewer than 100 employees may prepare and implement pay equity plans but are not required to do so. (Parts II and III)
9. Different classes of employers will have different time limits for implementing pay equity. (Clause 13 (2) (e))
10. Provision is made for enriched compensation adjustments for employees in the lowest paid female job classes. (Subsection 13 (3))
11. Each employer will be required to make annual adjustments in rates of compensation equal to at least 1 per cent of the employer's payroll for the preceding year until pay equity is achieved. (Subsections 13 (4) and (5))
12. Employers in the public sector will have seven years from the effective date to implement pay equity plans. (Subsection 13 (7))
13. Pay equity plans bind an employer, the employees of an employer and the bargaining agent, if any, of the employees. (Subsection 13 (9))
14. The employer and the bargaining agent for employees in a bargaining unit will negotiate the pay equity plan for the bargaining unit. (Section 14)

NOTES EXPLICATIVES

Le projet de loi a pour objet d'éliminer la discrimination systémique entre les sexes en ce qui concerne la rétribution du travail effectué par les employés des catégories d'emplois à prédominance féminine qui oeuvrent dans les établissements de tous les employeurs du secteur public (terme défini) et dans ceux des employeurs du secteur privé (terme défini) qui ont à leur service dix employés ou plus. Voici certains points saillants du projet de loi :

1. Repérage de la discrimination systémique entre les sexes au moyen de comparaisons établies entre les catégories d'emplois à prédominance féminine (terme défini) et les catégories d'emplois à prédominance masculine (terme défini) en ce qui concerne la rétribution et la valeur du travail effectué. (Article 4)
2. Établissement d'un critère servant à déterminer la valeur du travail. (Article 5)
3. Établissement de méthodes permettant de déterminer si l'équité salariale est atteinte. (Article 6)
4. Obligation pour les employeurs d'établir et de maintenir des pratiques de rétribution assurant l'équité salariale. (Article 7)
5. Exclusion, pour la détermination de l'équité salariale, de certains écarts de rétribution tels ceux qui sont fondés sur des régimes légitimes d'ancienneté ou sur la pratique du «salaire étoilé». (Article 8)
6. Interdiction à l'employeur de diminuer la rétribution afin d'atteindre l'équité salariale. (Paragraphe 9 (1))
7. Interdiction d'intimider les personnes qui demandent l'application de la loi, qui participent ou pourraient participer à une instance relative à l'exécution de la loi. (Paragraphe 9 (2))
8. Obligation pour tous les employeurs du secteur public, et pour les employeurs du secteur privé qui ont au moins 100 employés à leur service, d'élaborer et de mettre en oeuvre des programmes d'équité salariale. Les employeurs du secteur privé qui ont plus de neuf et moins de 100 employés peuvent élaborer et mettre en oeuvre un programme d'équité salariale, mais ne sont pas obligés de le faire. (Parties II et III)
9. Dates limites différentes selon les différentes catégories d'employeurs pour atteindre l'équité salariale. (Alinéa 13 (2) e))
10. Rajustements plus importants pour les employés des catégories d'emplois à prédominance féminine dont le salaire est le plus bas. (Paragraphe 13 (3))
11. Obligation pour tous les employeurs d'effectuer des rajustements annuels de la rétribution équivalant à au moins 1 pour cent de leur feuille de paie pour l'année précédente, jusqu'à ce que l'équité salariale soit atteinte. (Paragraphes 13 (4) et (5))
12. Établissement d'une période de sept ans à la fin de laquelle les employeurs du secteur public devront avoir atteint l'équité salariale. (Paragraphe 13 (7))
13. Les programmes d'équité salariale lient l'employeur, les employés de l'employeur et leur agent négociateur, le cas échéant. (Paragraphe 13 (9))
14. Négociation d'un programme d'équité salariale relié à une unité de négociation entre l'employeur et l'agent négociateur des employés de l'unité de négociation. (Article 14)

15. The employer will prepare the pay equity plan for employees who are not in a bargaining unit. (Subsection 14 (8) and section 15)
16. Review officers will investigate and attempt to settle pay equity plans where an employer or an employer and a bargaining agent are unable to prepare a pay equity plan by the mandatory posting date (a defined term). Review officers will have the power to settle outstanding matters by order. (Section 16)
17. A pay equity plan shall be deemed to have been approved by the Commission if no objections are filed with the Commission. (Subsections 15 (8) and 16 (5))
18. Small private sector employers will have a transition period before they have to comply with the Act with respect to existing compensation practices in existing establishments (a defined term). (Section 21)
19. The Pay Equity Commission of Ontario is established and will consist of the Pay Equity Office and the Pay Equity Hearings Tribunal. The Pay Equity Office will be responsible for administrative and enforcement matters. The Hearings Tribunal will be responsible for the hearing objections and complaints. (Sections 17, 22, 27 and 34)
20. Fines may be imposed for contraventions of certain provisions of the Act and orders of the Hearings Tribunal. (Section 26)
21. Review officers will be appointed to investigate objections and complaints and to monitor the preparation and implementation of pay equity plans. (Section 35)
22. Provision is made for a review of the Act beginning seven years after the effective date. (Section 38)

15. Élaboration par l'employeur d'un programme d'équité salariale à l'intention des employés qui n'appartiennent pas à une unité de négociation. (Paragraphe 14 (8) et article 15)
16. Des agents de révision mènent des enquêtes et tentent d'amener les parties à accepter un règlement lorsqu'un employeur ou un employeur et un agent négociateur ne peuvent élaborer un programme d'équité salariale à la date d'affichage obligatoire (terme défini). Les agents de révision ont le pouvoir de régler au moyen d'un ordre les questions en souffrance. (Article 16)
17. Approbation réputée d'un plan d'équité salariale par la Commission en l'absence d'oppositions déposées auprès de celle-ci. (Paragraphe 15 (8) et 16 (5))
18. Période de transition accordée aux petits employeurs du secteur privé avant qu'ils ne soient tenus de se conformer à la loi en ce qui concerne les pratiques existantes de rétribution dans leurs établissements (terme défini) existants. (Article 21)
19. Création de la Commission de l'équité salariale de l'Ontario, qui se compose du Bureau de l'équité salariale et du Tribunal de l'équité salariale. Le Bureau de l'équité salariale est chargé des questions administratives et de l'application de la loi. Le Tribunal entend les oppositions et les plaintes. (Articles 17, 22, 27 et 34)
20. Imposition d'amendes pour les contraventions à certaines dispositions de la loi ou aux ordonnances du Tribunal. (Article 26)
21. Nomination d'agents de révision pour enquêter au sujet des oppositions et des plaintes et pour contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale. (Article 35)
22. Examen de la loi sept ans après son entrée en vigueur. (Article 38)

Bill 154**1987****An Act to provide
for Pay Equity****CONTENTS**

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Preamble

Whereas it is desirable that affirmative action be taken to redress gender discrimination in the compensation of employees employed in female job classes in Ontario;

Projet de loi 154

1987

**Loi portant établissement
de l'équité salariale**

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Attendu qu'il est souhaitable que des mesures concrètes soient prises aux fins d'éliminer la discrimination fondée sur le sexe en matière de rétribution des employés oeuvrant dans des catégories d'emplois à prédominance féminine en Ontario; Preambule

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

PART I

General

Definitions

1.—(1) In this Act,

“agent
négociateur”
R.S.O. 1980,
c. 228

“bargaining agent” means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in an establishment and includes an organization representing employees to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such employees;

“convention
collective”

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commis-
sion”

“Commission” means the Pay Equity Commission of Ontario established by this Act;

“rétribution”

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“date
d’entrée
en vigueur”

“effective date” means the day this Act comes into force;

“employé”

“employee” does not include a student employed for his or her vacation period;

“établissement”

“establishment” means all of the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under section 14 or decided upon under section 15;

“catégorie
d’emplois à
prédominance
féminine”

“female job class” means, except where there has been a decision that a job class is a male job class as described in clause (b) of the definition of “male job class”,

- (a) a job class in which 60 per cent or more of the members are female,

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

Dispositions générales

- 1** (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions
- «agent de révision» Personne désignée comme agent de révision aux termes du paragraphe 35 (1). «review officer»
- «agent négociateur» S'entend d'un syndicat au sens de la *Loi sur les relations de travail*, en sa qualité d'agent négociateur exclusif aux termes de cette loi à l'égard d'une ou de plusieurs unités de négociation au sein d'un établissement. S'entend en outre d'une organisation qui représente des employés auxquels s'applique la présente loi, si cette organisation est titulaire de droits exclusifs de négociation en vertu d'une autre loi à l'égard de ces employés. «bargaining agent»
L.R.O. 1980,
chap. 228
- «catégorie d'emplois» Les postes qui présentent, au sein d'un établissement, des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution, un même niveau de salaire ou une même gamme de taux de salaire. «job class»
- «catégorie d'emplois à prédominance féminine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance masculine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance masculine» : «female job class»
- a) d'une catégorie d'emplois dont 60 pour cent ou plus des membres sont des femmes;
 - b) d'une catégorie d'emplois qu'un agent de révision ou que le Tribunal décide de désigner comme catégorie d'emplois à prédominance féminine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance féminine.
- «catégorie d'emplois à prédominance masculine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine telle que «male job class»

- (b) a job class that a review officer or the Hearings Tribunal decides is a female job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a female job class;

“zone géographique”

R.S.O. 1980,
c. 497

“geographic division” means,

- (a) a county, territorial district or regional municipality described in the *Territorial Division Act*,
- (b) The Municipality of Metropolitan Toronto,

and for the purposes of this Act, the Territorial District of Sudbury and The Regional Municipality of Sudbury shall be considered to be one geographic division;

“Tribunal”

“Hearings Tribunal” means the Pay Equity Hearings Tribunal established by this Act;

“catégorie d'emplois”

“job class” means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates;

“taux de catégorie”

“job rate” means the highest rate of compensation for a job class;

“catégorie d'emplois à prédominance masculine”

“male job class” means, except where there has been a decision that a job class is a female job class as described in clause (b) of the definition of “female job class”,

- (a) a job class in which 70 per cent or more of the members are male, or
- (b) a job class that a review officer or the Hearings Tribunal decides is a male job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a male job class;

“ministre”

“Minister” means the Minister of Labour;

“programme d'équité salariale”

“pay equity plan” means a document as described in section 13;

décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance féminine» :

- a) d'une catégorie d'emplois dont 70 pour cent ou plus des membres sont des hommes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que le Tribunal décide de désigner comme catégorie d'emplois à prédominance masculine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance masculine.

«Commission» La Commission de l'équité salariale de l'Ontario créée par la présente loi. «Commission»

«convention collective» Convention écrite conclue entre un employeur et un agent négociateur et qui traite des conditions d'emploi. «collective agreement»

«date d'entrée en vigueur» Le jour de l'entrée en vigueur de la présente loi. «effective date»

«employé» Sont exclus les étudiants employés pendant leurs vacances. «employee»

«établissement» Tous les employés d'un employeur employés dans une même zone géographique ou des zones géographiques convenues aux termes de l'article 14 ou déterminées aux termes de l'article 15. «establishment»

«ministre» Le ministre du Travail. «Minister»

«programme d'équité salariale» Document décrit à l'article 13. «pay equity plan»

«règlements» Les règlements pris en application de la présente loi. «regulations»

«rétribution» Tous les paiements et avantages versés ou accordés à la personne qui exerce des fonctions lui donnant droit au versement d'une somme fixe ou vérifiable, ou au profit de cette personne. «compensation»

«secteur privé» Tous les employeurs qui ne font pas partie du secteur public. «private sector»

«secteur public» Tous les employeurs qui sont mentionnés à l'annexe. «public sector»

- "secteur privé" "private sector" means all of the employers who are not in the public sector;
- "secteur public" "public sector" means all of the employers who are referred to in the Schedule;
- "règlements" "regulations" means the regulations made under this Act;
- "agent de révision" "review officer" means a person designated as a review officer under subsection 35 (1).
- Posting (2) Where this Act requires that a document be posted in the work place, the employer shall post a copy of the document in prominent places in each work place for the establishment to which the document relates in such a manner that it may be read by all of the employees in the work place.
- Idem (3) The employer shall provide a copy of every document posted in the work place under this Act,
- (a) to the bargaining agent, if any, that represents the employees who are affected by the document;
 - (b) to any employee who requests a copy of the document, if the employee is not represented by a bargaining agent and the employee is affected by the document.
- Calculation of number of employees (4) If Part II or III applies to an employer, a reference in this Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Ontario by the employer during the twelve-month period preceding the effective date or during the period from the day the first employee commenced employment in Ontario with the employer until the effective date, whichever period is shorter.
- Decisions re job classes (5) In deciding or agreeing whether a job class is a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of

«taux de catégorie» Taux de rétribution le plus élevé relié à une catégorie d'emplois donnée. «job rate»

«Tribunal» Le Tribunal de l'équité salariale créé par la présente loi. «Hearings Tribunal»

«zone géographique» S'entend : «geographic division»

- a) d'un comté, d'un district territorial ou d'une municipalité régionale au sens de la *Loi sur la division territoriale*; L.R.O. 1980, chap. 497
- b) de la municipalité de la communauté urbaine de Toronto.

Pour l'application de la présente loi, le district territorial de Sudbury et la municipalité régionale de Sudbury sont considérés comme formant une seule zone géographique.

(2) Lorsque la présente loi exige l'affichage d'un écrit sur les lieux de travail, l'employeur en affiche un exemplaire dans des endroits bien en vue dans chaque lieu de travail de l'établissement auquel se rapporte l'écrit, de façon que tous les employés puissent le consulter. Affichage

(3) L'employeur fournit une copie de chaque écrit affiché sur les lieux de travail aux termes de la présente loi : Idem

- a) à l'agent négociateur, le cas échéant, qui représente les employés qui sont concernés par l'écrit;
- b) à tout employé qui demande une copie de l'écrit, si cet employé n'est pas représenté par un agent négociateur et que l'employé est concerné par l'écrit.

(4) Si les parties II ou III s'appliquent à un employeur, la mention dans la présente loi du nombre d'employés de l'employeur est réputée une mention du nombre moyen d'employés de l'employeur en Ontario au cours de la plus courte des périodes suivantes : soit la période de douze mois qui précède la date d'entrée en vigueur, soit la période qui se situe entre la date du début en Ontario de l'emploi, au service de l'employeur, du premier employé et la date d'entrée en vigueur. Calcul du nombre d'employés

(5) Aux fins de décider si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, ou de convenir de la prédominance d'une catégorie d'emplois, il est tenu compte du sexe des personnes qui exercent traditionnellement ces Détermination de la catégorie d'emplois

work and such other criteria as may be prescribed by the regulations.

One-member
job classes

↓
(6) A job class may consist of only one position if it is unique in the establishment because its duties, responsibilities, qualifications, recruiting procedures or compensation schedule, salary grade or range of salary rates are not similar to those of any other position in the establishment.

Disabled,
etc.,
not to be
classified
separately

(7) A position shall not be assigned to a job class different than that of other positions in the same establishment that have similar duties and responsibilities, require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates only because the needs of the occupant of the position have been accommodated for the purpose of complying with the *Human Rights Code, 1981*.

1981, c. 53

Combined
establish-
ments

2.—(1) Two or more employers and the bargaining agent or agents for their employees, who come together to negotiate a central agreement, may agree that, for the purposes of an equal pay plan, all the employees constitute a single establishment and the employers shall be considered to be a single employer.

Idem

(2) Two or more employers who are municipalities in the same geographic division and the bargaining agent or agents for their employees or, if there is no bargaining agent, the employees, may agree that, for the purposes of an equal pay plan, all the employees constitute a single establishment and the employers shall be considered to be a single employer.

Employers
to implement
plans

(3) Notwithstanding that the employees of two or more employers are considered to be one establishment under subsection (1) or (2), each employer is responsible for implementing and maintaining the equal pay plan with respect to the employer's employees.

Application

3.—(1) This Act applies to all employers in the private sector in Ontario who employ ten or more employees, all employers in the public sector, the employees of employers to whom this Act applies and to their bargaining agents, if any. ↑

emplois, des stéréotypes sexuels attachés à des domaines d'emplois, ainsi que des autres critères qui peuvent être prescrits par les règlements.

▼ (6) Une catégorie d'emplois peut ne comprendre qu'un seul poste, si celui-ci est d'un caractère unique au sein de l'établissement en raison du fait que les fonctions, les responsabilités, les qualités requises, les procédures de recrutement ou la grille de rétribution, le niveau de salaire ou la gamme de taux de salaire qui lui sont reliés ne sont pas semblables à ceux qui sont reliés aux autres postes au sein de l'établissement.

Catégorie d'emplois à membre unique

(7) Un poste ne doit pas, uniquement à cause du fait qu'il a été tenu compte des besoins de son titulaire afin d'observer le *Code des droits de la personne (1981)*, être placé dans une catégorie d'emplois différente de celle d'autres postes du même établissement qui présentent des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution, un même niveau de salaire ou une même gamme de taux de salaire.

Interdiction de classer les personnes handicapées, etc., séparément 1981, chap. 53

2 (1) Lorsque deux employeurs ou plus rencontrent l'agent négociateur ou les agents négociateurs de leurs employés en vue de négocier une convention centrale, ils peuvent convenir qu'aux fins d'un programme d'égalité des salaires, tous les employés ne constituent qu'un seul établissement et tous les employeurs sont réputés un seul employeur.

Établissements combinés

(2) Deux employeurs ou plus qui sont des municipalités situées dans la même zone géographique et l'agent négociateur ou les agents négociateurs de leurs employés, ou, s'il n'y a pas d'agent négociateur, les employés, peuvent convenir qu'aux fins d'un programme d'égalité des salaires, les employés ne constituent qu'un seul établissement, et les employeurs sont réputés un seul employeur.

Idem

(3) Malgré le fait que des employés de deux ou plusieurs employeurs sont réputés ne constituer qu'un seul établissement aux termes du paragraphe (1) ou (2), chaque employeur est responsable de la mise en oeuvre et du maintien du programme d'égalité des salaires visant les employés de l'employeur.

Les employeurs responsables des programmes

3 (1) La présente loi s'applique à tous les employeurs du secteur privé en Ontario qui emploient dix employés ou plus, à tous les employeurs du secteur public, aux employés des employeurs auxquels s'applique la présente loi, ainsi qu'aux agents négociateurs de ces employés, le cas échéant. ▲

Champ d'application

- Idem (2) If at any time after the coming into force of this Act an employer employs ten or more employees in Ontario, this Act applies with respect to the employer although the number of employees is subsequently reduced to fewer than ten.
- Purpose **4.**—(1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.
- Identification of systemic gender discrimination (2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed.
- Value determination **5.**—(1) For the purposes of this Act, the criterion to be applied in determining value of work shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.
- Idem, disabled employees, etc. 1981, c. 53 (2) The fact that an employee's needs have been accommodated for the purpose of complying with the *Human Rights Code, 1981* shall not be considered in determining the value of work performed.
- Achievement of pay equity **6.**—(1) For the purposes of this Act, pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.
- Idem (2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.
- Basis of comparison (3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job

(2) Lorsqu'un employeur emploie dix employés ou plus en Ontario après l'entrée en vigueur de la présente loi, celle-ci s'applique à lui, même si le nombre de ses employés est par la suite réduit à moins de dix. Idem

4 (1) La présente loi a pour objet d'éliminer la discrimination systémique entre les sexes, en ce qui concerne la rétribution du travail effectué par les employés dans les catégories d'emplois à prédominance féminine. Objet

(2) Le repérage de la discrimination systémique entre les sexes en ce qui concerne la rétribution se fait au moyen de comparaisons établies entre chacune des catégories d'emplois à prédominance féminine et les catégories d'emplois à prédominance masculine dans un même établissement au niveau de la rétribution et de la valeur du travail accompli. Repérage de la discrimination systémique entre les sexes

5 (1) Pour l'application de la présente loi, le critère qui sert à déterminer la valeur du travail se fonde sur l'habileté, l'effort et la responsabilité qu'exige normalement l'accomplissement de ce travail, ainsi que sur les conditions dans lesquelles il est normalement effectué. Détermination de la valeur

(2) Le fait qu'il a été tenu compte des besoins d'un employé afin d'observer le *Code des droits de la personne (1981)* n'est pas pris en considération dans la détermination de la valeur du travail effectué. Idem, personnes handicapées, etc. 1981, chap. 53

6 (1) Pour l'application de la présente loi, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie relié à une catégorie d'emplois à prédominance masculine dans le même établissement, si le travail effectué au niveau des deux catégories est de valeur égale ou comparable. Équité salariale atteinte

(2) S'il n'existe aucune catégorie d'emplois à prédominance masculine avec laquelle peut être établie une comparaison pour l'application du paragraphe (1), l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie d'une catégorie d'emplois à prédominance masculine du même établissement qui avait, au moment de la comparaison, un taux de catégorie supérieur, mais qui effectue un travail d'une valeur inférieure à celui de la catégorie d'emplois à prédominance féminine. Idem

(3) Si une catégorie d'emplois à prédominance féminine dans un établissement et des catégories d'emplois à prédominance masculine dans le même établissement se prêtent à plusieurs comparaisons, l'équité salariale est atteinte lorsque le Fondement de la comparaison

rate for the female job class is at least as great as the job rate for the male job class,

- (a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; or
- (b) with the highest job rate, if the work performed in the male job class is of less value.

Idem

(4) Comparisons required by this Act,

- (a) for job classes inside a bargaining unit, shall be made between job classes in the bargaining unit; and
- (b) for job classes outside any bargaining unit, shall be made between job classes that are outside any bargaining unit.

Idem

(5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of the female job class that is the subject of the comparison, the female job class shall be compared to male job classes throughout the establishment.

Groups of jobs

(6) An employer may treat job classes that are arranged in a group of jobs as one female job class if 60 per cent or more of the employees in the group are female.

Idem

(7) An employer shall treat job classes that are arranged in a group of jobs as one female job class if a review officer or the Commission decides that the group should be treated as one female job class.

Idem

(8) An employer may, with the agreement of the bargaining agent, if any, for the employees of the employer, decide to treat job classes that are arranged in a group of jobs as one female job class.

taux de catégorie relié à la catégorie d'emplois à prédominance féminine est au moins égal au taux de catégorie relié à la catégorie d'emplois à prédominance masculine :

- a) qui a le taux de catégorie le plus bas, si le travail effectué dans les deux catégories d'emplois est de valeur égale ou comparable;
- b) qui a le taux de catégorie le plus élevé, si le travail effectué dans la catégorie d'emplois à prédominance masculine est de valeur inférieure.

(4) Les comparaisons exigées par la présente loi sont ^{Idem} établies :

- a) entre des catégories d'emplois qui appartiennent à l'unité de négociation, en ce qui concerne les catégories d'emplois appartenant à une unité de négociation;
- b) entre des catégories d'emplois qui n'appartiennent à aucune unité de négociation, en ce qui concerne les catégories d'emplois n'appartenant pas à une unité de négociation.

(5) Lorsque, après l'application du paragraphe (4), il ne se trouve aucune catégorie d'emplois à prédominance masculine dans laquelle s'effectue un travail de valeur égale ou comparable au travail qui s'effectue dans la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison, celle-ci est comparée aux catégories d'emplois à prédominance masculine de l'ensemble de l'établissement. ^{Idem}

↓
(6) L'employeur peut traiter des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine si 60 pour cent ou plus des employés du groupe sont des femmes. ^{Groupes d'emplois}


(7) L'employeur traite des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine si un agent de révision ou la Commission décide que le groupe doit être traité comme une catégorie d'emplois à prédominance féminine. ^{Idem}

(8) L'employeur peut, avec l'assentiment de l'agent négociateur des employés de l'employeur, le cas échéant, décider de traiter des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine. ^{Idem}

Job rate,
value of
work

(9) Where a group of jobs is being treated as a female job class, the job rate of the individual job class within the group that has the greatest number of employees is the job rate for the group and the value of the work performed by that individual job class is the value of the work performed by the group.

Definition

(10) In this section, "group of jobs" means a series of job classes that bear a relationship to each other because of the nature of the work required to perform the work of each job class in the series and that are organized in successive levels. 

Pay equity
required

7.—(1) Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

Idem

(2) No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1).

Exclusions
from
determination

8.—(1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

- (a) a formal seniority system that does not discriminate on the basis of gender;
- (b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;
- (c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;
- (d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or

(9) Lorsque l'employeur traite un groupe d'emplois comme une catégorie d'emplois à prédominance féminine, le taux de catégorie de la catégorie d'emplois particulière au sein du groupe qui comporte le plus grand nombre d'employés est le taux de catégorie de ce groupe. La valeur du travail effectué par la catégorie particulière est la valeur du travail effectué par le groupe.

Taux de catégorie, valeur du travail

(10) Dans le présent article, «groupe d'emplois» s'entend d'une série de catégories d'emplois qui sont reliées entre elles en raison de la nature des tâches que comporte chaque catégorie d'emplois de la série, et réparties en grades consécutifs.

Définition

7 (1) L'employeur établit et maintient des pratiques de rétribution assurant l'équité salariale dans chacun de ses établissements.

Équité salariale obligatoire

(2) Il est interdit à l'employeur et à l'agent négociateur de négocier en vue d'obtenir l'établissement ou le maintien de pratiques de rétribution qui, si elles étaient adoptées, entraîneraient une contravention au paragraphe (1). Il leur est également interdit de convenir de telles pratiques.

Idem

8 (1) La présente loi n'a pas pour effet d'empêcher un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine, si l'employeur peut démontrer que l'écart résulte :

Exceptions

- a) d'un système organisé d'ancienneté exempt de discrimination fondée sur le sexe;
- b) d'un programme d'affectations temporaires de formation ou de perfectionnement des employés dont peuvent se prévaloir également les employés féminins et les employés masculins et qui mène à l'avancement de ceux qui y participent;
- c) d'un régime de rétribution au mérite fondé sur un système organisé d'évaluation du rendement préalablement porté à la connaissance des employés et exempt de discrimination fondée sur le sexe;
- d) de la pratique de gestion du personnel dite du «salaire étoilé» lorsque, à la suite d'un processus non sexiste de réévaluation, un poste a été déclassé et que la rétribution de l'employé a été bloquée ou que toute augmentation de sa rétribution a été suspendue jusqu'à ce que la rétribution reliée au poste déclassé devienne égale ou supérieure à la rétribution de l'employé;

- (e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

Idem

(2) After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

Idem

(3) A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

Idem

(4) A position shall not be designated under subsection (3) if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies to similar full-time work.

Reduction of
compensation
prohibited

9.—(1) An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

Intimidation
prohibited

(2) No employer, employee or bargaining agent and no one acting on behalf of an employer, employee or bargaining agent shall intimidate, coerce or penalize, or discriminate against, a person,

- (a) because the person may participate, or is participating, in a proceeding under this Act;

- e) de l'absence de main-d'oeuvre qualifiée qui engendre une inflation temporaire de la rétribution provoquée par la difficulté qu'éprouve l'employeur à recruter des employés satisfaisant aux exigences des postes au sein d'une catégorie d'emplois.

(2) Lorsque l'équité salariale est atteinte dans un établissement, la présente loi n'a pas pour effet d'empêcher des écarts de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine si l'employeur peut démontrer que l'écart résulte de différences au niveau du pouvoir de négociation. Idem

(3) Aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, il n'est pas nécessaire de tenir compte des postes que l'employeur désigne comme postes qui procurent de l'emploi occasionnel. Les postes ainsi désignés peuvent également être exclus lors des rajustements de la rétribution effectués en vertu d'un programme d'équité salariale. Idem

(4) Un poste n'est pas désigné aux termes du paragraphe (3) si, selon le cas : Idem

- a) la durée du travail est égale ou supérieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps;
- b) le travail est effectué sur une base saisonnière pour le compte du même employeur et dans le cadre du même poste;
- c) le travail est effectué sur une base régulière et continue, quoique durant une période inférieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps.

9 (1) L'employeur ne doit pas diminuer la rétribution payable à un employé ni réduire le taux de rétribution rattaché à un poste afin d'atteindre l'équité salariale. Réduction de la rétribution interdite

(2) Il est interdit à l'employeur, à l'employé, à l'agent négociateur, ainsi qu'à leurs mandataires d'intimider, de contraindre, de pénaliser une personne ou d'exercer une discrimination à son égard pour l'un des motifs suivants : Manoeuvres d'intimidation interdites

- a) elle participe ou pourrait participer à une instance intentée en vertu de la présente loi;

- (b) because the person has made, or may make, a disclosure required in a proceeding under this Act;
- (c) because the person is exercising, or may exercise, any right under this Act; or
- (d) because the person has acted or may act in compliance with this Act, the regulations or an order made under this Act or has sought or may seek the enforcement of this Act, the regulations or an order made under this Act.

Compensation
adjustments

(3) Where, to achieve pay equity, it is necessary to increase the rate of compensation for a job class, all positions in the job class shall receive the same adjustment in dollar terms.

PART II

Implementation: Public Sector and Large Private Sector Employers

Definition

10. In this Part, "mandatory posting date" means,

- (a) the second anniversary of the effective date, in respect of employers in the public sector and in respect of employers in the private sector who have at least 500 employees on the effective date;
- (b) the third anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date;
- (c) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20; and
- (d) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least

- b) elle a déjà fait ou pourrait faire une divulgation exigée lors d'une instance intentée en vertu de la présente loi;
- c) elle exerce ou pourrait exercer un droit en vertu de la présente loi;
- d) elle a déjà agi ou pourrait agir conformément à la présente loi, aux règlements ou à un ordre ou une ordonnance pris en vertu de la présente loi, ou a déjà demandé ou pourrait demander l'exécution de la présente loi, des règlements ou d'un ordre ou d'une ordonnance pris en vertu de la présente loi.

(3) S'il est nécessaire d'augmenter le taux de rétribution d'une catégorie d'emplois afin d'atteindre l'équité salariale, tous les postes dans cette catégorie d'emplois reçoivent le même taux de rajustement, en termes absolus.

Rajustements
de la
rétribution

PARTIE II

Mise en oeuvre : employeurs du secteur public et grands
employeurs du secteur privé

10 Dans la présente partie, «date d'affichage obligatoire» s'entend :

Définition

- a) du deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur public et en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur;
- b) du troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur;
- c) du quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20;
- d) du cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cin-

ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Application

11.—(1) This Part applies to all employers in the public sector, all employers in the private sector who, on the effective date, employ 100 or more employees and those employers in the private sector who post a notice under section 20.

Idem

(2) This Part does not apply to an employer who does not have employees on the effective date.

Comparison
of
job classes

12. Before the mandatory posting date, every employer to whom this Part applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

Pay equity
plans
required

13.—(1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and, without restricting the generality of the foregoing,

- (a) shall identify the establishment to which the plan applies; and
- (b) shall identify all job classes which formed the basis of the comparisons under section 12.

Idem

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,

- (a) shall describe the gender-neutral comparison system used for the purposes of section 12;
- (b) shall set out the results of the comparisons carried out under section 12;
- (c) shall identify all positions and job classes in which differences in compensation are permitted by sub-

quante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20.



11 (1) La présente partie s'applique à tous les employeurs du secteur public et aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont 100 employés ou plus à leur service, ainsi qu'aux employeurs du secteur privé qui affichent l'avis visé à l'article 20.

Champ
d'application

(2) La présente partie ne s'applique pas à l'employeur qui, à la date d'entrée en vigueur, n'a aucun employé à son service.

Idem



12 Avant la date d'affichage obligatoire, l'employeur auquel s'applique la présente partie établit des comparaisons, au moyen d'un système non sexiste de comparaison, entre les catégories d'emplois à prédominance féminine de chacun de ses établissements et les catégories d'emplois à prédominance masculine des mêmes établissements aux fins de déterminer si l'équité salariale existe à l'égard de chaque catégorie d'emplois à prédominance féminine.

Comparaison
des catégories
d'emplois

13 (1) Il est élaboré, conformément à la présente partie, des documents connus sous l'appellation de programmes d'équité salariale, visant à assurer l'équité salariale à l'égard des catégories d'emplois à prédominance féminine au sein de chacun des établissements de chaque employeur auquel s'applique la présente partie. Ces programmes comprennent notamment :

Programmes
obligatoires
d'équité
salariale

- a) le repérage de l'établissement visé par le programme;
- b) le repérage de toutes les catégories d'emplois sur lesquelles se fondent les comparaisons visées à l'article 12.

(2) Si un établissement comporte à la fois des catégories d'emplois à prédominance féminine et des catégories d'emplois à prédominance masculine, chaque programme d'équité salariale relatif à l'établissement :

Idem

- a) expose le système non sexiste de comparaison utilisé pour l'application de l'article 12;
- b) énonce les résultats des comparaisons établies aux termes de l'article 12;
- c) repère tous les postes et toutes les catégories d'emplois dans lesquels les paragraphes 8 (1) ou (3) per-

section 8 (1) or (3) and give the reasons for relying on such subsection;

- (d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
- (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,
 - (i) the second anniversary of the effective date, in respect of employers in the public sector,
 - (ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,
 - (iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,
 - (iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20, and
 - (v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Idem

(3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until

- mettent des écarts de rétribution, et donne les motifs du recours à ces paragraphes;
- d) expose, à l'égard de toutes les catégories d'emplois à prédominance féminine où l'équité salariale n'existe pas selon les comparaisons établies aux termes de l'article 12, le mode de rajustement de la rétribution choisi pour atteindre l'équité salariale;
 - e) énonce la date à laquelle seront effectués les premiers rajustements de la rétribution en vertu du programme. Cette date ne peut être postérieure :
 - (i) au deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur public,
 - (ii) au troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur,
 - (iii) au quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur,
 - (iv) au cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20,
 - (v) au sixième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20.

(3) Un programme d'équité salariale prévoit qu'il sera accordé à la catégorie ou aux catégories d'emplois à prédominance féminine qui ont, pendant la période de mise en oeuvre du programme, le taux de catégorie le plus bas, une augmentation du taux de rétribution aux termes du programme qui est supérieure aux augmentations accordées aux termes du programme aux autres catégories d'emplois à prédominance féminine, jusqu'à ce que le taux de catégorie de la catégorie

Idem

such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of,

- (a) the job rate required to achieve pay equity; and
- (b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.

Minimum adjustments

(4) The first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2) (e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the twelve-month period following the first adjustments shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the first adjustments; and
- (b) the amount required to achieve pay equity.

Idem

(5) Adjustments shall be made in compensation under a pay equity plan on each anniversary of the first adjustments in compensation under the plan and shall be such that during the twelve-month period following each anniversary the combined compensation payable under all pay equity plans of the employer shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the anniversary; and
- (b) the amount required to achieve pay equity.

Maximum adjustments

(6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless

ou des catégories d'emplois à prédominance féminine qui reçoivent l'augmentation supérieure soit égal au moins élevé des taux suivants :

- a) le taux de catégorie nécessaire pour atteindre l'équité salariale;
- b) le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine ayant droit à un rajustement aux termes du programme et dont le taux de catégorie se classe immédiatement au-dessus de celui de la catégorie ou des catégories d'emplois visées.

(4) Les premiers rajustements de la rétribution en vertu d'un programme d'équité salariale sont versables à la date prévue à l'alinéa (2) e) et sont tels que la rétribution combinée payable aux termes de l'ensemble des programmes d'équité salariale de l'employeur au cours des douze mois qui suivent les premiers rajustements est majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Rajustements
minimaux

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède les premiers rajustements;
- b) la somme nécessaire pour atteindre l'équité salariale.

➔ (5) Chaque anniversaire des premiers rajustements de la rétribution en vertu d'un programme d'équité salariale, des rajustements à la rétribution sont effectués en vertu du programme. Ces rajustements additionnels sont effectués de façon que la rétribution combinée payable aux termes de l'ensemble des programmes d'équité salariale de l'employeur au cours de la période de douze mois qui suit chaque anniversaire soit majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes : ➔

Idem

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède l'anniversaire;
- b) la somme nécessaire pour atteindre l'équité salariale.

(6) Sauf dans le but d'effectuer des rajustements rétroactifs à la rétribution en vertu d'un programme d'équité salariale ou

Rajustements
maximaux

required to do so by an order described in clause 37 (g), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a twelve-month period in an amount greater than 1 per cent of the employer's payroll during the preceding twelve-month period.

Exception (7) Notwithstanding subsection (6), pay equity plans in the public sector shall provide for adjustments in compensation such that the plan will be fully implemented not later than the seventh anniversary of the effective date.

Definition (8) In this section, "payroll" means the total of all wages and salaries payable to the employees in Ontario of the employer.

Pay equity plan binding (9) A pay equity plan that is approved under this Part binds the employer and the employees to whom the plan applies and their bargaining agent, if any.

Plan to prevail (10) A pay equity plan that is approved under this Part prevails over all relevant collective agreements and the adjustments to rates of compensation required by the plan shall be deemed to be incorporated into and form part of the relevant collective agreements.

Deemed compliance (11) Every employer who prepares and implements a pay equity plan under this Part shall be deemed not to be in contravention of subsection 7 (1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date.

Establishments with bargaining units **14.—**(1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

Bargaining unit plans (2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

- (a) the gender-neutral comparison system used for the purposes of section 12; and

à moins qu'il y soit tenu aux termes d'une ordonnance visée à l'alinéa 37 g), la présente loi n'a pas pour effet d'obliger un employeur à majorer la rétribution payable aux termes des programmes d'équité salariale de l'employeur au cours d'une période de douze mois d'une somme qui représente plus de 1 pour cent de la feuille de paie de l'employeur relative à la période précédente de douze mois.

(7) Malgré le paragraphe (6), les programmes d'équité salariale du secteur public prévoient les rajustements de la rétribution de manière à ce que ces programmes soient pleinement mis en oeuvre au plus tard le septième anniversaire de la date d'entrée en vigueur.

Exception

(8) Dans le présent article, «feuille de paie» s'entend de la totalité des salaires et traitements payables aux employés de l'employeur en Ontario.

Définition

(9) Le programme d'équité salariale approuvé aux termes de la présente partie lie l'employeur et les employés auxquels il s'applique, ainsi que leur agent négociateur, le cas échéant.

Le programme d'équité salariale lie les parties

(10) Le programme d'équité salariale approuvé aux termes de la présente partie l'emporte sur toute convention collective pertinente. Les rajustements des taux de rétribution qu'exige le programme sont réputés incorporés aux conventions collectives pertinentes et en faire partie intégrante.

Le programme l'emporte

(11) L'employeur qui prépare et met en oeuvre un programme d'équité salariale aux termes de la présente partie est réputé ne pas contrevenir au paragraphe 7 (1) en ce qui concerne les employés visés par le plan ou les plans qui s'appliquent aux employés, mais seulement en ce qui a trait aux pratiques de rétribution qui existaient immédiatement avant la date d'entrée en vigueur.

Conformité réputée

14 (1) Il doit être élaboré, dans tout établissement où des employés sont représentés par un agent négociateur, un programme d'équité salariale relié à chaque unité de négociation, ainsi qu'un programme d'équité salariale relié à la partie de l'établissement dont les membres n'appartiennent pas à une unité de négociation.

Établissements dotés d'unités de négociation

(2) L'employeur et l'agent négociateur d'une unité de négociation négocient de bonne foi et s'efforcent de convenir, avant à la date d'affichage obligatoire :

Programmes reliés à une unité de négociation

- a) du système non sexiste de comparaison utilisé pour l'application de l'article 12;

(b) a pay equity plan for the bargaining unit.

Idem

(3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

(a) that the establishment of the employer includes two or more geographic divisions; and

(b) that a job class is a female job class or a male job class.

Posting
of plan

(4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the work place.

Deemed
approval and
first
adjustments

(5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Failure
to agree

(6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

Idem

(7) Subsection (6) does not prevent the bargaining agent from notifying the Commission of a failure to agree on a pay equity plan by the mandatory posting date.

Non-
bargaining
unit plan

(8) An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(9) Subsections 15 (2) to (8) apply to a pay equity plan described in subsection (8).

Establish-
ments
without
bargaining
units

15.—(1) In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the work place.

- b) d'un programme d'équité salariale relié à l'unité de négociation.

(3) Dans le cadre des négociations exigées par le paragraphe (2), l'employeur et l'agent négociateur peuvent, pour les fins du programme d'équité salariale, convenir de ce qui suit : Idem

- a) que l'établissement de l'employeur comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) L'employeur et l'agent négociateur qui ont convenu d'un programme d'équité salariale y apposent leur signature. À la date d'affichage obligatoire ou antérieurement à celle-ci, l'employeur affiche une copie du programme sur les lieux de travail. Affichage du programme

(5) Le programme d'équité salariale qui porte la signature de l'employeur et celle de l'agent négociateur est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale. Approbation réputée et premiers rajustements

(6) Si l'employeur et l'agent négociateur n'ont pas convenu d'un programme d'équité salariale à la date d'affichage obligatoire, l'employeur en avise sans délai la Commission. Absence d'entente

(7) Le paragraphe (6) n'a pas pour effet d'empêcher l'agent négociateur d'aviser la Commission du défaut de convenir d'un programme d'équité salariale à la date d'affichage obligatoire ou antérieurement à celle-ci. Idem

(8) L'employeur élabore un programme d'équité salariale destiné aux employés de son établissement qui n'appartiennent à aucune des unités de négociation de l'établissement. À la date d'affichage obligatoire ou antérieurement à celle-ci, il affiche une copie du programme sur les lieux de travail. Programme non relié à une unité de négociation

(9) Les paragraphes 15 (2) à (8) s'appliquent au programme d'équité salariale décrit au paragraphe (8). Idem

15 (1) L'employeur dont l'établissement ne compte aucun employé représenté par un agent négociateur élabore un programme d'équité salariale à l'égard de son établissement. L'employeur, à la date d'affichage obligatoire ou antérieurement à celle-ci, affiche une copie du programme sur les lieux de travail. Établissements dépourvus d'unités de négociation

- Idem (2) For the purposes of a pay equity plan required by this section or subsection 14 (8), the employer may decide,
- (a) that the establishment of the employer includes two or more geographic divisions; and
 - (b) that a job class is a female job class or a male job class.
- Idem (3) An agreement under section 14 between an employer and a bargaining agent shall not affect any pay equity plan required by this section or subsection 14 (8).
- Employee review (4) The employees to whom a pay equity plan required by this section or subsection 14 (8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.
- Changes (5) If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.
- Posting of notice (6) Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the work place a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.
- Objections (7) Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employer under subsection (4).
- Deemed approval and first adjustments (8) If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(2) Pour l'application du programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8), l'employeur peut décider :

Idem

- a) que son établissement comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) L'entente intervenue en vertu de l'article 14 entre l'employeur et l'agent négociateur n'a pas d'incidence sur le programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8).

Idem

(4) Les employés visés par un programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8) peuvent examiner le programme et présenter leurs observations à l'employeur jusqu'au quatre-vingt-dixième jour suivant la date d'affichage obligatoire.

Examen par l'employé

(5) L'employeur qui, à la suite des observations reçues au cours de la période d'examen visée au paragraphe (4), est d'avis que des modifications au programme d'équité salariale s'imposent, peut y apporter des modifications.

Modification

(6) Dans les sept jours qui suivent la fin de la période d'examen visée au paragraphe (4), l'employeur affiche sur les lieux de travail un avis qui indique si le programme d'équité salariale a été modifié ou non aux termes du présent article. Si le programme a été modifié, l'employeur affiche également une copie du programme modifié sur laquelle les modifications sont clairement indiquées.

Affichage d'un avis

(7) Dans les trente jours de l'affichage concernant un programme d'équité salariale aux termes du paragraphe (6), l'employé ou le groupe d'employés visés par le programme peuvent déposer un avis d'opposition auprès de la Commission, qu'ils aient présenté ou non leurs observations à l'employeur aux termes du paragraphe (4).

Oppositions

(8) S'il n'est déposé aucune opposition à un programme d'équité salariale auprès de la Commission en vertu du paragraphe (7), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation réputée et premiers rajustements

Investigation
by review
officer and
settlement

16.—(1) If the Commission,

- (a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 14; or
- (b) receives a notice of objection under subsection 15 (7),

a review officer shall investigate the matter and endeavour to effect a settlement.

Orders by
review officer

(2) If the review officer is unable to effect a settlement as provided for in subsection (1), he or she shall, by order, decide all outstanding matters.

Posting of
plan

(3) Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the work place a copy of the pay equity plan that reflects the settlement or order.

Objections

(4) Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Commission within thirty days of the posting as follows:

1. If the plan relates to a bargaining unit, objections may be filed only if the review officer has made an order under subsection (2) and only the employer or the bargaining agent for the bargaining unit may file objections.
2. If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1) with the agreement of the objector who filed the objection under subsection 15 (7), only an employee or group of employees to whom the plan applies, other than the objector, may file an objection.
3. If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

16 (1) Lorsque la Commission :Enquête par
l'agent de
révision et
règlement

- a) ou bien est avisée par l'employeur ou l'agent négociateur qu'aucune entente n'est intervenue au sujet du programme d'équité salariale aux termes de l'article 14;
- b) ou bien reçoit l'avis d'opposition visé au paragraphe 15 (7),

un agent de révision mène une enquête à ce sujet et tente d'amener les parties à accepter un règlement.

(2) Si l'agent de révision ne peut parvenir à amener les parties à accepter le règlement visé au paragraphe (1), il règle toutes les questions en souffrance au moyen d'un ordre.

Ordre de
l'agent de
révision

(3) Si l'agent de révision amène les parties à accepter un règlement aux termes du paragraphe (1) ou donne un ordre aux termes du paragraphe (2), l'employeur affiche sans délai sur les lieux de travail une copie du programme d'équité salariale qui reflète le règlement ou l'ordre.

Affichage du
programme

(4) Des oppositions au programme d'équité salariale affiché en vertu du paragraphe (3), peuvent être déposées auprès de la Commission dans les trente jours de l'affichage, selon les modalités suivantes :

Oppositions

1. Si le programme est relié à une unité de négociation, des oppositions peuvent être déposées seulement si l'agent de révision a donné un ordre aux termes du paragraphe (2). Dans ce cas, seuls l'employeur ou l'agent négociateur de l'unité de négociation peuvent déposer une opposition.
2. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a amené, aux termes du paragraphe (1), les parties à accepter un règlement avec le consentement de l'opposant qui a déposé l'opposition aux termes du paragraphe 15 (7), seuls un employé ou le groupe d'employés visés par le programme, autre que l'opposant, peuvent déposer une opposition.
3. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a donné un ordre aux termes du paragraphe (2), l'employeur, un employé ou un groupe d'employés visés par le programme peuvent déposer une opposition.

Deemed approval and first adjustments

(5) If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Commission in accordance with subsection (4), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Idem

(6) Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date.

Hearing

17.—(1) If the Commission receives a notice of objection under subsection 16 (4), the Hearings Tribunal shall hold a hearing and, in its decision, shall settle the pay equity plan to which the objection relates.

Posting of plan

(2) Forthwith after receiving the decision of the Hearings Tribunal, the employer shall post a copy of the decision in the work place and, on the day provided for in the plan, shall make the first adjustments in compensation required to achieve pay equity.

Idem

(3) Where adjustments in compensation are made after the day provided for in a pay equity plan, the employer shall make the adjustments retroactive to that date.

PART III

Implementation: Small Private Sector Employers

Application

18. This Part applies only to employers in the private sector who, on the effective date, employ more than nine and fewer than 100 employees.

Pay equity plans

19. An employer to whom this Part applies may establish pay equity plans for any of the employer's establishments.

Posting of notice

20.—(1) An employer who decides to establish a pay equity plan or plans for an establishment, as provided for in section 19, shall give notice of the decision to the bargaining agents, if any, for employees in the establishment and shall post a notice of the decision in the work place.

Application of Part II

(2) Upon the posting of the notice referred to in subsection (1), Part II applies to the establishment to which the notice relates and this Part ceases to apply to the employer with respect to that establishment.

(5) Si un agent de révision amène les parties à accepter, aux termes du paragraphe (1), un règlement relatif à un programme d'équité salariale relié à une unité de négociation, ou que, dans tout autre cas, aucune opposition n'a été déposée auprès de la Commission au sujet d'un programme d'équité salariale aux termes du paragraphe (4), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

(6) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

17 (1) Si la Commission reçoit un avis d'opposition en vertu du paragraphe 16 (4), le Tribunal tient une audience et règle, dans sa décision, le programme d'équité salariale qui fait l'objet de l'opposition.

Audience

(2) Lorsqu'il reçoit la décision du Tribunal, l'employeur en affiche sans délai une copie sur les lieux de travail. À la date prévue au programme, il effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Affichage du
programme

(3) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

PARTIE III

Mise en oeuvre : petits employeurs du secteur privé

18 La présente partie ne s'applique qu'aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont à leur service plus de neuf, mais moins de 100 employés.

Champ
d'application

19 L'employeur auquel s'applique la présente partie peut établir des programmes d'équité salariale à l'égard de chacun de ses établissements.

Programme
d'équité
salariale

20 (1) L'employeur qui décide d'établir, aux termes de l'article 19, un ou plusieurs programmes d'équité salariale à l'égard de son établissement, avise de sa décision les agents négociateurs des employés de son établissement, le cas échéant, et affiche un avis de cette décision sur les lieux de travail.

Affichage de
l'avis

(2) Dès que l'employeur affiche l'avis prévu au paragraphe (1), la partie II s'applique à l'établissement visé par l'avis et la présente partie cesse alors de s'appliquer à l'employeur à l'égard de cet établissement.

Cas d'applica-
tion de la
partie II

Transition

21.—(1) Notwithstanding subsection 7 (1) or (2), an employer to whom this Part applies may maintain compensation practices that were in existence in the employer's establishment immediately before the effective date,

- (a) until the fifth anniversary of the effective date, if the employer employs at least fifty but fewer than 100 employees on the effective date; and
- (b) until the sixth anniversary of the effective date, if the employer employs at least ten but fewer than fifty employees on the effective date,

and, until the relevant anniversary date, a compensation change that is the same in percentage terms for female job classes and male job classes in the establishment shall be deemed not to be a contravention of those subsections even though the change is different in dollar terms for a female job class than for a male job class.

Repeal

(2) This Part is repealed on the sixth anniversary of the effective date.

PART IV

Enforcement

Complaints

22.—(1) Any employer, employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining that there has been a contravention of this Act, the regulations or an order of the Commission.

Idem

(2) Any employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining with respect to a pay equity plan that applies to the employee or group of employees that,

- (a) the plan is not being implemented according to its terms; or
- (b) because of changed circumstances in the establishment, the plan is not appropriate for the female job

21 (1) Malgré les paragraphes 7 (1) ou (2), l'employeur auquel s'applique la présente partie peut maintenir les pratiques de rétribution qui avaient cours dans son établissement immédiatement avant la date d'entrée en vigueur : Disposition transitoire

- a) jusqu'au cinquième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins cinquante, mais moins de 100 employés à son service à la date d'entrée en vigueur;
- b) jusqu'au sixième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins dix, mais moins de cinquante employés à son service à la date d'entrée en vigueur.

Jusqu'à l'anniversaire pertinent, la modification de la rétribution qui est la même, en termes de pourcentage, à l'égard des catégories d'emplois à prédominance féminine qu'à l'égard des catégories d'emplois à prédominance masculine dans l'établissement, est réputée ne pas contrevenir à ces paragraphes, même si, en termes absolus, la modification qui est faite à l'égard des catégories d'emplois à prédominance féminine diffère de celle qui est faite à l'égard des catégories d'emplois à prédominance masculine.

(2) La présente partie est abrogée le jour du sixième anniversaire de la date d'entrée en vigueur. Abrogation

PARTIE IV

Exécution de la loi



22 (1) Un employeur, un employé, un groupe d'employés ou, le cas échéant, un agent négociateur qui représente l'employé ou le groupe d'employés, peuvent déposer auprès de la Commission une plainte signalant qu'il y a eu contravention à la présente loi, aux règlements ou à une ordonnance de la Commission. Plaintes

(2) Un employé, un groupe d'employés ou, le cas échéant, l'agent négociateur qui représente l'employé ou le groupe d'employés, peuvent déposer auprès de la Commission, à l'égard du programme d'équité salariale qui vise cet employé ou ce groupe d'employés, une plainte précisant, selon le cas : Idem

- a) que la mise en oeuvre du programme ne s'effectue pas conformément à ses modalités;
- b) qu'en raison d'un changement de la situation au sein de l'établissement, le programme ne convient pas à la catégorie d'emplois à prédominance fémi-

class to which the employee or group of employees belongs. ▲

Combining of complaints

(3) The Hearings Tribunal may combine two or more complaints and deal with them in one proceeding if the complaints,

(a) are made against the same person and bring into question the same or a similar issue; or

(b) have questions of law or fact in common.

Investigation of complaints

23.—(1) Subject to subsection (2), when the Commission receives a complaint, a review officer shall investigate the complaint and may endeavour to effect a settlement.

Idem

(2) The review officer shall notify the parties and the Hearings Tribunal as soon as he or she decides that a settlement cannot be effected and that he or she will not be making an order under subsection 24 (3). ▲

Decision to not deal with complaint

(3) A review officer may decide that a complaint should not be considered if the review officer is of the opinion that,

(a) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or

(b) the complaint is not within the jurisdiction of the Commission.

Hearing before Tribunal

(4) The review officer shall notify the complainant of his or her decision under subsection (3) and the complainant may request a hearing before the Hearings Tribunal with respect to the decision.

Orders by review officers

24.—(1) Where a review officer is of the opinion that a pay equity plan is not being prepared as required by Part II, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

Idem

(2) Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

Idem

(3) Where a review officer is of the opinion that there has been a contravention of subsection 7 (1) or (2), the review officer may order the employer and the bargaining agent, if

nine à laquelle appartiennent l'employé ou le groupe d'employés. ▲

(3) Le Tribunal peut réunir deux ou plusieurs plaintes et en traiter au cours d'une même instance, si ces plaintes, selon le cas : Réunion de plaintes

- a) sont formulées contre la même personne et se rapportent au même point en litige ou à un point semblable;
- b) soulèvent les mêmes questions de droit ou de fait.

23 (1) Sous réserve du paragraphe (2), un agent de révision mène une enquête concernant la plainte reçue par la Commission et peut tenter d'amener les parties à accepter un règlement. Enquêtes au sujet des plaintes

(2) Aussitôt que l'agent de révision décide qu'il ne peut pas amener les parties à accepter un règlement et qu'il ne donnera pas d'ordre en vertu du paragraphe 24 (3), il en avise les parties et le Tribunal. Idem ▲

(3) L'agent de révision peut décider de ne pas examiner la plainte s'il est d'avis que, selon le cas : Décision de ne pas traiter de la plainte

- a) la plainte est futile, frivole, vexatoire ou faite de mauvaise foi;
- b) la plainte n'est pas du ressort de la Commission.

(4) L'agent de révision avise le plaignant de la décision qu'il a prise aux termes du paragraphe (3), et le plaignant peut demander au Tribunal de tenir une audience à l'égard de la décision. Audience devant le Tribunal

24 (1) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas en cours d'élaboration tel que l'exige la partie II peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre en vue d'élaborer le programme. Ordres des agents de révision

(2) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas mis en oeuvre conformément à ses modalités peut ordonner à l'employeur de prendre les mesures énoncées dans son ordre aux fins de mettre en oeuvre le programme. Idem

(3) L'agent de révision qui est d'avis qu'il y a eu contravention aux paragraphes 7 (1) ou (2) peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesu- Idem

any, to take such steps as are set out in the order to comply with either or both of those subsections.

Idem

(4) An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 10.

Reference to
Tribunal

(5) Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Hearings Tribunal.

Hearing
before
Tribunal

(6) An employer or bargaining agent named in an order under this section may request a hearing before the Hearings Tribunal with respect to the order, and, where the order was made following a complaint but the complaint has not been settled, the complainant may also request a hearing.

Hearings

25.—(1) The Hearings Tribunal shall hold a hearing,

- (a) if a review officer is unable to effect a settlement of a complaint and has not made an order under subsection 24 (3);
- (b) if a request for a hearing, as described in subsection 23 (3) or 24 (6), is received by the Hearings Tribunal; or
- (c) if a review officer refers a matter to the Hearings Tribunal under subsection 24 (5).

Orders

(2) The Hearings Tribunal shall decide the issue that is before it for a hearing and, without restricting the generality of the foregoing, the Hearings Tribunal,

- (a) where it finds that an employer or a bargaining agent has failed to comply with Part II, may order that a review officer prepare a pay equity plan for the employer's establishment and that the employer and the bargaining agent, if any, or either of them, pay all of the costs of preparing the plan;
- (b) where it finds that an employer has contravened subsection 9 (2) by dismissing, suspending or otherwise penalizing an employee, may order the employer to reinstate the employee, restore the employee's compensation to the same level as before the contravention and pay the employee the

res énoncées dans son ordre aux fins de se conformer à l'un ou l'autre de ces paragraphes ou aux deux.

(4) Un ordre donné aux termes du paragraphe (1) peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 10. Idem

(5) Si l'employeur ou l'agent négociateur ne se conforment pas à l'ordre donné aux termes du présent article, un agent de révision peut renvoyer la question au Tribunal. Renvoi devant le Tribunal

(6) Un employeur ou un agent négociateur nommés dans un ordre donné aux termes du présent article peuvent demander au Tribunal de tenir une audience à cet égard. Si l'ordre a été donné à la suite d'une plainte et que la plainte n'a pas fait l'objet d'un règlement, le plaignant peut également demander une audience. Audience devant le Tribunal

25 (1) Le Tribunal tient une audience dans les cas suivants : Audiences

- a) si l'agent de révision ne peut amener les parties à accepter un règlement relativement à la plainte et qu'il n'a pas donné d'ordre en vertu du paragraphe 24 (3);
- b) si le Tribunal reçoit une demande d'audience prévue aux paragraphes 23 (3) ou 24 (6);
- c) si l'agent de révision renvoie une question devant le Tribunal aux termes du paragraphe 24 (5).

(2) Le Tribunal règle la question dont il est saisi, et peut notamment : Ordonnances

- a) enjoindre à l'agent de révision d'élaborer un programme d'équité salariale destiné à l'établissement de l'employeur, lorsqu'il constate que ce dernier ou l'agent négociateur ne se sont pas conformés à la partie II. Il peut aussi enjoindre à l'employeur et à l'agent négociateur, le cas échéant, ou à l'un d'eux, d'acquitter la totalité des frais d'élaboration du programme;
- b) lorsqu'elle constate que l'employeur a enfreint le paragraphe 9 (2) en pénalisant un employé, notamment en le renvoyant ou en le suspendant, peut ordonner à l'employeur de réintégrer l'employé dans son emploi, de placer sa rétribution au même niveau qu'avant la contravention et de lui verser le

amount of all compensation lost because of the contravention;

- (c) where it finds that an employer has contravened subsection 9 (1) by reducing compensation, may order the employer to adjust the compensation of all employees affected to the rate to which they would have been entitled but for the reduction in compensation and to pay compensation equal to the amount lost because of the reduction; ▲
- (d) may confirm, vary or revoke orders of review officers;
- (e) may, for the female job class that is the subject of the complaint or reference, order adjustments in compensation in order to achieve pay equity, where the Hearings Tribunal finds that there has been a contravention of subsection 7 (1);
- (f) may order that the pay equity plan be revised in such manner as the Hearings Tribunal considers appropriate, where it finds that the plan is not appropriate for the female job class that is the subject of the complaint or reference because there has been a change of circumstances in the establishment; and
- (g) may order a party to a proceeding to take such action or refrain from such action as in the opinion of the Hearings Tribunal is required in the circumstances.

Idem

(3) An order under clause (2) (a) may provide that a review officer may retain the services of such experts as the review officer considers necessary to prepare a pay equity plan.

Application
of Part II

(4) Part II, except section 16, applies with necessary modifications to a pay equity plan prepared under clause (2) (a) but,

- (a) the order of the Hearings Tribunal may provide for a mandatory posting date that is later than the one provided in section 10;
- (b) the order of the Hearings Tribunal shall not provide for a compensation adjustment date that is different than the relevant date set out in clause 13 (2) (e);

montant entier de la rétribution perdue en raison de la contravention;

- c) lorsqu'il constate que l'employeur a enfreint le paragraphe 9 (1) en diminuant la rétribution, ordonner à l'employeur de rajuster la rétribution de tous les employés concernés au taux auquel ils auraient eu droit n'eût été la diminution, et de verser une rétribution égale au montant perdu en raison de la diminution; ▲
- d) confirmer, modifier ou révoquer les ordres des agents de révision;
- e) ordonner, à l'égard de la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi, que des rajustements de la rétribution soient effectués pour atteindre l'équité salariale, lorsqu'il constate qu'il y a eu contravention au paragraphe 7 (1);
- f) ordonner que le programme d'équité salariale soit révisé de la manière que le Tribunal estime appropriée lorsqu'il constate que le programme ne convient pas à la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi en raison d'un changement de la situation au sein de l'établissement;
- g) enjoindre à une partie à l'instance soit de prendre certaines mesures, soit de s'en abstenir, selon ce que le Tribunal juge nécessaire dans les circonstances.

(3) L'ordonnance prise en vertu de l'alinéa (2) a) peut permettre à l'agent de révision de retenir les services des experts que celui-ci estime nécessaires en vue d'élaborer un programme d'équité salariale. Idem

(4) À l'exception de l'article 16, la partie II s'applique avec les adaptations nécessaires au programme d'équité salariale élaboré en vertu de l'alinéa (2) a). Toutefois : Cas d'application de la partie II

- a) l'ordonnance prise par le Tribunal peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 10;
- b) l'ordonnance du Tribunal ne prévoit pas une date de rajustement de la rétribution différente de la date pertinente énoncée à l'alinéa 13 (2) e);

- (c) the review officer shall perform the duties of the employer and the bargaining agent, if any;
- (d) when the review officer posts the plan in the work place as subsection 14 (4) or 15 (6) provides, the employer, the bargaining agent (if the plan relates to a bargaining unit), or any employee or group of employees to whom the plan applies (if the plan does not relate to a bargaining unit) may file an objection with the Hearings Tribunal; and
- (e) an objection under clause (d) shall be dealt with by the Hearings Tribunal under section 17.

Retroactive compensation adjustments

(5) An order under clause (2) (e) may be retroactive to the day of the contravention of subsection 7 (1).

Idem

(6) An order under clause (2) (f) may provide that adjustments in compensation resulting from the revision of the pay equity plan be made retroactive to the day of the change in circumstances that gave rise to the order.

Offences and penalties

26.—(1) Every person who contravenes or fails to comply with subsection 9 (2) or subsection 36 (5) or an order of the Hearings Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, in the case of an individual, and not more than \$25,000, in any other case.

Parties

(2) If a corporation or bargaining agent contravenes or fails to comply with subsection 9 (2) or subsection 36 (5) or an order of the Hearings Tribunal, every officer, official or agent thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or bargaining agent has been prosecuted or convicted.

Prosecution against bargaining agent

(3) A prosecution for an offence under this Act may be instituted against a bargaining agent in its own name.

Consent

(4) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Hearings Tribunal.

- c) l'agent de révision exerce les fonctions de l'employeur et de l'agent négociateur, le cas échéant;
- d) lorsque l'agent de révision affiche le programme sur les lieux de travail comme le prévoient les paragraphes 14 (4) ou 15 (6), l'employeur, l'agent négociateur (si le programme est relié à une unité de négociation) ou un employé ou un groupe d'employés visés par le programme (si le programme n'est pas relié à une unité de négociation) peuvent déposer une opposition auprès du Tribunal;
- e) le Tribunal traite de l'opposition visée à l'alinéa d) aux termes de l'article 17.

(5) L'ordonnance prise aux termes de l'alinéa (2) e) peut avoir un effet rétroactif au jour de la contravention au paragraphe 7 (1). Rajustements rétroactifs de la rétribution

(6) L'ordonnance prise aux termes de l'alinéa (2) f) peut prévoir que les rajustements de la rétribution résultant de la révision du programme d'équité salariale ont un effet rétroactif au jour où s'est produit le changement de situation qui a donné lieu à l'ordonnance. Idem

26 (1) Quiconque contrevient aux paragraphes 9 (2) ou 36 (5) ou à une ordonnance du Tribunal ou ne s'y conforme pas, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$ dans le cas d'une personne physique, et d'au plus 25 000 \$ dans les autres cas. Infractions et peines

(2) Si une personne morale ou un agent négociateur contrevient aux paragraphes 9 (2) ou 36 (5) ou à une ordonnance du Tribunal ou ne s'y conforment pas, le dirigeant, l'employé ou le mandataire qui autorise ou permet la contravention ou y donne son consentement est partie à l'infraction, en est coupable et, sur déclaration de culpabilité, est passible de la peine prévue pour cette infraction, que la personne morale ou l'agent négociateur aient été ou non poursuivis ou déclarés coupables de l'infraction. Parties

(3) Une poursuite relative à une infraction à la présente loi peut être intentée contre l'agent négociateur en tant que tel. Poursuite contre l'agent négociateur

(4) Il ne peut être intenté aucune poursuite relative à une infraction à la présente loi sans le consentement écrit du Tribunal. Consentement

PART V

Administration

Commission
established

27.—(1) There is hereby established a commission to be known as the Pay Equity Commission of Ontario.

Idem

(2) The Commission shall consist of the Pay Equity Hearings Tribunal and the Pay Equity Office.

Staff

(3) Such employees as are necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* to serve in the Pay Equity Office.

R.S.O. 1980,
c. 418

Services of
ministries,
etc.

(4) The Commission shall, if appropriate, use the services and facilities of a ministry, board, commission or agency of the Government of Ontario.

Hearings
Tribunal

28.—(1) The Hearings Tribunal shall be composed of a presiding officer, one or more deputy presiding officers and as many other members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Alternate
presiding
officer

(2) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.

Remuneration
and expenses

(3) The members of the Hearings Tribunal who are not Crown employees shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.

Resignation
of member

(4) Where a member of the Hearings Tribunal resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Hearings Tribunal.

Powers and
duties of
Tribunal

29.—(1) The Hearings Tribunal may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act or the regulations.

PARTIE V

Application de la loi

- 27** (1) Est créée une commission nommée Commission de l'équité salariale de l'Ontario. Création de la Commission
- (2) La Commission se compose du Tribunal de l'équité salariale et du Bureau de l'équité salariale. Idem
- (3) Les employés nécessaires à la conduite efficace des activités de la Commission peuvent être nommés aux termes de la *Loi sur la fonction publique* afin de travailler au Bureau de l'équité salariale. Personnel
L.R.O. 1980, chap. 418
- (4) La Commission se prévaut, si cela est approprié, des services et installations des ministères, commissions ou organismes du gouvernement de l'Ontario. Services des ministères, etc.
- 28** (1) Le Tribunal se compose d'un président, d'un ou de plusieurs vice-présidents, et du nombre d'autres membres répartis en un nombre égal de représentants des employeurs et des employés que le lieutenant-gouverneur en conseil juge approprié. Toutes ces personnes sont nommées par le lieutenant-gouverneur en conseil. Tribunal
- (2) Le lieutenant-gouverneur en conseil désigne l'un des vice-présidents comme président suppléant. Cette personne possède tous les pouvoirs du président si ce dernier est absent ou empêché d'agir. Président suppléant
- (3) Les membres du Tribunal qui ne sont pas des employés de la Couronne reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et, sous réserve de l'approbation du Conseil de gestion du gouvernement, les frais normaux engagés lors de l'exercice de leurs fonctions aux termes de la présente loi. Rémunération et frais
- (4) Le membre du Tribunal qui démissionne peut toutefois exercer les attributions qu'il aurait continué d'avoir s'il n'avait pas démissionné, en ce qui concerne toute question faisant l'objet d'une instance à laquelle il a participé en tant que membre. Démission d'un membre
- 29** (1) Le Tribunal peut exercer les pouvoirs et doit accomplir les obligations qui lui sont conférés par la présente loi ou par les règlements. Attributions du Tribunal

- Idem (2) Without limiting the generality of subsection (1), the Hearings Tribunal,
- ▶ (a) may decide in an order made under subsection 17 (1) or clause 25 (2) (a) that any job class is a female job class or a male job class;
 - (b) may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it; and
 - (c) may require that any person seeking a determination of any matter by the Hearings Tribunal shall give written notice, in such form and manner as the Hearings Tribunal specifies, to the persons that the Hearings Tribunal specifies.
- ▶
- Panels (3) The presiding officer may establish panels of the Hearings Tribunal and it may sit in two or more panels simultaneously so long as a quorum of the Hearings Tribunal is present on each panel.
- Quorum (4) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Hearings Tribunal.
- Decisions (5) The decision of the majority of the members of the Hearings Tribunal present and constituting a quorum is the decision of the Hearings Tribunal, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.
- Exclusive jurisdiction **30.**—(1) The Hearings Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Hearings Tribunal thereon is final and conclusive for all purposes.
- Reconsideration of decisions, etc. (2) The Hearings Tribunal may at any time, if it considers it advisable to do so, reconsider a decision or order made by it and vary or revoke the decision or order.
- ▶
- Testimony in civil proceedings **31.** Except with the consent of the Hearings Tribunal, no member of the Hearings Tribunal, employee of the Commission or person whose services have been contracted for by the Commission shall be required to testify in any civil proceeding, in any proceeding before the Hearings Tribunal or in any proceeding before any other tribunal respecting information

(2) Le Tribunal possède notamment les attributions suivantes : Idem

- a) il peut décider, au moyen d'une ordonnance prise aux termes du paragraphe 17 (1) ou de l'alinéa 25 (2) a), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- b) il peut établir des règles concernant la conduite et la gestion de ses affaires, ainsi que des règles de pratique et de procédure à suivre relativement aux questions dont il est saisi;
- c) il peut exiger que la personne qui lui demande de prendre une décision relative à une question quelconque en avise par écrit, de la manière que précise le Tribunal, les personnes qu'il précise.

(3) Le président peut former des comités du Tribunal, qui peut ainsi siéger simultanément en plusieurs comités, pourvu que le quorum du Tribunal soit atteint dans chacun d'eux. Comités

(4) Le président ou un vice-président, un membre représentant les employeurs et un membre représentant les employés constituent le quorum et peuvent exercer tous les pouvoirs du Tribunal. Quorum

(5) La décision de la majorité des membres du Tribunal présents qui constituent le quorum est la décision du Tribunal. En cas de partage, le président ou le vice-président a voix prépondérante. Décisions

30 (1) Le Tribunal a compétence exclusive pour exercer les pouvoirs que lui confère la présente loi et trancher les questions de fait ou de droit soulevées à l'occasion d'une question dont il est saisi. Ses décisions et les mesures qu'il prend sont définitives et ont à toutes fins force de chose jugée. Compétence exclusive

(2) Le Tribunal peut, chaque fois qu'il le juge à propos, examiner de nouveau, modifier ou annuler ses propres décisions et ordonnances. Nouvel examen des décisions et ordonnances

31 Sauf si le Tribunal y consent, ses membres, les employés de la Commission et les personnes dont elle a retenu les services par contrat ne peuvent pas être contraints à témoigner lors d'une instance civile ou devant le Tribunal ou tout autre tribunal administratif, en ce qui concerne les rensei- Témoignages lors d'instances civiles

obtained in the discharge of their duties or while acting within the scope of their employment under this Act. ▲

Annual
report

32. The Commission shall make an annual report of its activities and affairs to the Minister not later than the 30th day of June in each year and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Parties to
proceedings

33.—(1) Where a hearing is held before the Hearings Tribunal or where a review officer investigates for the purposes of effecting a settlement of an objection or complaint, the parties to the proceeding are,

- (a) the employer;
- (b) the objector or complainant; and
- (c) the bargaining agent (if the pay equity plan relates to a bargaining unit) or the employees to whom the plan relates (if the plan does not relate to a bargaining unit).

Notice

(2) Where the Hearings Tribunal or a review officer requires that a notice be given by the employer to employees, the employer shall post the notice in the work place and such notice shall be deemed to have been sufficiently given to all employees in the work place when it is so posted.

Represent-
ation

(3) An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Hearings Tribunal or before a review officer.

Idem

(4) Where an employee or group of employees advises the Hearings Tribunal in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Hearings Tribunal or review officer and not the employee or group of employees.

Idem

(5) Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part IV. ▼

Pay Equity
Office

34.—(1) The Pay Equity Office is responsible for the enforcement of this Act and orders of the Hearings Tribunal.

gnements obtenus dans l'accomplissement de leurs devoirs ou dans le cadre de leurs fonctions aux termes de la présente loi.

32 La Commission présente au ministre, au plus tard le 30 juin de chaque année, un rapport annuel sur ses activités et ses affaires. Le ministre le dépose devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Rapport
annuel

33 (1) Lorsque le Tribunal tient une audience ou qu'un agent de révision mène une enquête en vue d'amener les parties à accepter un règlement relativement à une opposition ou à une plainte, les parties à l'instance sont les suivantes :

Parties à
l'instance

- a) l'employeur;
- b) l'opposant ou le plaignant;
- c) l'agent négociateur (si le programme d'équité salariale est relié à une unité de négociation) ou les employés visés par le programme (si celui-ci n'est pas relié à une unité de négociation).

(2) Lorsque le Tribunal ou l'agent de révision exige que l'employeur donne un avis à ses employés, celui-ci affiche l'avis sur les lieux de travail, et l'avis ainsi affiché est réputé suffisant à l'égard de tous les employés du lieu de travail.

Avis

(3) Un employé ou un groupe d'employés peuvent désigner une personne ou une organisation comme leur mandataire devant le Tribunal ou l'agent de révision.

Représenta-
tion

(4) Lorsqu'un employé ou un groupe d'employés avisent par écrit le Tribunal de leur désir de garder l'anonymat, leur mandataire devient à leur place la partie à l'instance devant le Tribunal ou l'agent de révision.

Idem

(5) Lorsque le paragraphe (4) s'applique, le mandataire peut, en son nom, prendre toutes les mesures qu'un employé peut prendre aux termes de la présente loi. Il peut notamment déposer une opposition en vertu de la partie II et déposer une plainte en vertu de la partie IV.

Idem

34 (1) Le Bureau de l'équité salariale est chargé de l'exécution de la présente loi et des ordonnances du Tribunal.

Bureau de
l'équité
salariale

Idem

(2) Without limiting the generality of subsection (1), the Pay Equity Office,

- (a) may conduct research and produce papers concerning any aspect of pay equity and related subjects and make recommendations to the Minister in connection therewith;
- (b) may conduct public education programs and provide information concerning any aspect of pay equity and related subjects;
- (c) shall provide support services to the Hearings Tribunal;
- (d) shall conduct such studies as the Minister requires and make reports and recommendations in relation thereto; and
- (e) shall conduct a study with respect to systemic gender discrimination in compensation for work performed, in sectors of the economy where employment has traditionally been predominantly female, by female job classes in establishments that have no appropriate male job classes for the purpose of comparison under section 5 and, within one year of the effective date, shall make reports and recommendations to the Minister in relation to redressing such discrimination.

Chief
adminis-
trative
officer

(3) The Lieutenant Governor in Council shall appoint a person to be the head of the Pay Equity Office and that person shall be the chief administrative officer of the Commission.

Minister
may require
studies, etc.

(4) The Minister may require the Pay Equity Office to conduct such studies related to pay equity as are set out in a request to the head of the Office and to make reports and recommendations in relation thereto.

Annual
report

(5) Not later than the 31st day of March in each year, the head of the Pay Equity Office shall make an annual report to the Minister on the activities and affairs of the Commission and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

(2) Le Bureau de l'équité salariale possède notamment les attributions suivantes : Idem

- a) il peut effectuer des recherches et préparer des rapports concernant n'importe quel aspect de l'équité salariale et des questions connexes et peut également formuler des recommandations au ministre en ce qui concerne l'objet de ces recherches ou rapports;
- b) il peut instituer à l'intention du public des programmes d'information concernant n'importe quel aspect de l'équité salariale et des questions connexes;
- c) il fournit des services d'appoint au Tribunal;
- d) il mène les études qu'exige le ministre et prépare des rapports et formule des recommandations en ce qui concerne l'objet de ces études;
- e) il mène une étude au sujet de la discrimination systématique entre les sexes en ce qui concerne la rétribution du travail effectué, dans les secteurs de l'économie où la main-d'oeuvre est traditionnellement à prédominance féminine, par des catégories d'emplois à prédominance féminine dans les établissements qui n'ont pas de catégories d'emplois à prédominance masculine appropriées aux fins d'établir la comparaison visée à l'article 5; dans l'année qui suit la date d'entrée en vigueur, il prépare des rapports et formule des recommandations à l'intention du ministre en vue d'éliminer cette discrimination.

(3) Le lieutenant-gouverneur en conseil nomme une personne à la direction du Bureau de l'équité salariale. Cette personne est le responsable de l'administration de la Commission.

Responsable de l'administration

(4) Le ministre peut exiger que le Bureau de l'équité salariale mène les études liées à l'équité salariale que précise une demande qu'il adresse au dirigeant du Bureau. Il peut également exiger que le Bureau prépare des rapports et formule des recommandations en ce qui concerne l'objet de ces études.

Études exigées par le ministre

(5) Le dirigeant du Bureau de l'équité salariale présente au ministre, au plus tard le 31 mars de chaque année, un rapport annuel sur les activités et affaires de la Commission. Le ministre le dépose devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Rapport annuel

Review
officers,
designation

35.—(1) The head of the Pay Equity Office shall designate one or more employees of the Office to be review officers.

Review
officers,
duties

(2) Review officers shall monitor the preparation and implementation of pay equity plans, shall investigate objections and complaints filed with the Commission, may attempt to effect settlements and shall take such other action as is set out in this Act or in an order of the Hearings Tribunal. ▲

Powers

(3) A review officer, for the purpose of carrying out his or her duties,

- (a) may enter any place at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination; and
- (e) may provide in an order made under subsection 16 (2) or 24 (1) that any job class is a female job class or a male job class.

Non-
application
of
R.S.O. 1980,
c. 484

(4) The *Statutory Powers Procedure Act* does not apply to a review officer and he or she is not required to hold a hearing before making an order authorized by this Act.

Entry to
dwellings

36.—(1) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

35 (1) Le dirigeant du Bureau de l'équité salariale désigne un ou plusieurs employés du Bureau comme agents de révision.

Désignation
des agents
de révision

(2) Il incombe aux agents de révision de contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale et de mener des enquêtes au sujet des oppositions et des plaintes qui ont été déposées auprès de la Commission. Ils peuvent tenter d'amener les parties à accepter un règlement. Il leur incombe de prendre toute autre mesure prévue par la présente loi ou par une ordonnance du Tribunal. ▲

Fonctions
des agents
de révision

(3) Dans l'exercice de ses fonctions, l'agent de révision peut :

Pouvoirs

- a) à une heure raisonnable, pénétrer dans un endroit quelconque;
- b) exiger la production, à des fins d'inspection, de documents ou d'objets qui peuvent être reliés à l'exercice de ses fonctions;
- c) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent, les documents ou les objets produits à la suite de la demande formulée en vertu de l'alinéa b), aux fins d'en tirer des copies ou des extraits, après quoi ils sont promptement retournés à la personne qui les a produits;
- d) interroger quiconque sur des questions qui sont ou peuvent être reliées à l'exercice de ses fonctions, sous réserve du droit de cette personne à la présence d'un avocat ou d'un autre représentant lors de l'interrogatoire;
- e) stipuler, dans un ordre donné aux termes des paragraphes 16 (2) ou 24 (1), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) La *Loi sur l'exercice des compétences légales* ne s'applique pas à un agent de révision, et celui-ci n'est pas obligé de tenir une audience avant de donner un ordre autorisé par la présente loi.

Non-
application
du chap. 484
des L.R.O.
de 1980

36 (1) Le pouvoir accordé par la présente loi de pénétrer dans un endroit qui sert de logement, ne peut être exercé sans la permission de l'occupant, sauf en vertu d'un mandat délivré aux termes du présent article.

Accès à un
logement

Warrant for
search

(2) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Warrant for
entry

(3) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

Execution
and
expiry of
warrant

(4) A warrant issued under this section,

(a) shall specify the hours and days during which it may be executed; and

(b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(5) No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

Idem

(6) Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

Admissibility
of copies

(7) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

(2) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves à l'agent de révision dans l'exercice de ses fonctions aux termes de la présente loi, peut délivrer un mandat de perquisition rédigé selon la formule prescrite. Le mandat autorise l'agent de révision qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi elles sont promptement retournées à cet endroit.

Mandat de perquisition

(3) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un agent de révision, dans l'exercice de ses fonctions en vertu de la présente loi, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut délivrer un mandat rédigé selon la formule prescrite, autorisant l'agent de révision qui y est nommé à pénétrer dans cet endroit.

Mandat pour pénétrer dans un endroit

(4) Le mandat délivré aux termes du présent article :

Exécution et caducité du mandat

- a) précise les jours et les heures pendant lesquels il peut être exécuté;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de sa délivrance.

(5) Nul ne doit entraver ni gêner un agent de révision dans l'exécution d'un mandat ni d'une autre façon l'empêcher d'exercer ses fonctions aux termes de la présente loi.

Interdiction d'entraver

(6) Sauf si un mandat a été délivré aux termes du paragraphe (2), le paragraphe (5) n'est pas enfreint par le refus d'une personne de produire des documents ou des objets.

Idem

(7) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité des copies

PART VI

Regulations and Miscellaneous

Regulations

37. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and notices and providing for their use;
- (b) prescribing methods for determining the historical incumbency of a job class;
- (c) prescribing criteria that shall be taken into account in deciding whether a job class is a female job class or a male job class;
- (d) prescribing the method of valuing any form of compensation;
- (e) prescribing criteria that shall be taken into account in determining whether work performed in two job classes is of equal or comparable value;
- (f) prescribing criteria that shall be taken into account in deciding whether or not a difference in compensation between a female job class and a male job class is a difference that is permitted by subsection 8 (1) or (2);
- (g) permitting the Hearings Tribunal, on the application of an employer and in accordance with such criteria as may be prescribed in the regulations, to change the mandatory posting date and the dates for adjustments in compensation to dates later than those set out in Part II and to vary the minimum adjustments in compensation required by that Part, subject to such conditions as the Hearings Tribunal may impose in its order granting the application;
- (h) adding to the Appendix to the Schedule any person or class of persons or any agency, authority, board, commission, corporation or organization of any kind and providing that the mandatory posting date

PARTIE VI

Règlements et dispositions diverses

37 Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) prescrire des formules et des avis, et prévoir les modalités de leur emploi;
- b) prescrire les méthodes à utiliser pour déterminer le sexe des personnes qui occupent traditionnellement les postes d'une catégorie d'emplois;
- c) prescrire des critères dont il est tenu compte aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- d) prescrire la méthode à utiliser pour déterminer la valeur de toute forme de rétribution;
- e) prescrire des critères dont il est tenu compte aux fins de déterminer si le travail effectué dans deux catégories d'emplois est de valeur égale ou comparable;
- f) prescrire des critères dont il est tenu compte aux fins de déterminer si un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine est un écart permis par les paragraphes 8 (1) ou (2);
- g) permettre au Tribunal, à la demande d'un employeur et conformément aux critères qui peuvent être prescrits dans les règlements, de reporter la date d'affichage obligatoire et les dates des rajustements de la rétribution à des dates postérieures à celles que prévoit la partie II, ainsi que de modifier les rajustements minimaux de la rétribution exigés par cette partie, aux conditions que le Tribunal peut imposer dans l'ordonnance par laquelle il consent à la demande;
- h) ajouter à l'appendice de l'annexe une personne, une catégorie de personnes ou un organisme, un office, un conseil, une commission, une personne morale ou une organisation quelconque, et prévoir que la

for an entity so added shall be such date as is set out in the regulations.

Review of Act

38.—(1) Seven years after the effective date, the Lieutenant Governor in Council shall appoint a person who shall undertake a comprehensive review of this Act and its operation.

Report to Minister

(2) The person appointed under subsection (1) shall prepare a report on his or her findings and shall submit the report to the Minister.

Idem

(3) The Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Moneys

39. The moneys required for the purposes of this Act by the Crown in right of Ontario shall, until the 31st day of March, 1988, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Crown bound

40. This Act binds the Crown in right of Ontario.

Commencement

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

Short title

42. The short title of this Act is the *Pay Equity Act, 1987*.

SCHEDULE

1. The public sector in Ontario consists of,

- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
- (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario;
- (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown;
- (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or
- R.S.O. 1980, c. 303
- R.S.O. 1980, c. 129
- R.S.O. 1980, cc. 410, 389, 79, 391

date d'affichage obligatoire de ces derniers est celle qui figure aux règlements.

38 (1) Sept ans après la date d'entrée en vigueur, le lieutenant-gouverneur en conseil nomme une personne qui procède à l'examen global de la présente loi et des modalités de son application. Examen de la loi

(2) La personne nommée aux termes du paragraphe (1) rédige un rapport qui énonce ses conclusions et le présente au ministre. Rapport au ministre

(3) Le ministre dépose le rapport devant l'Assemblée si elle siège, sinon il le fait à la session suivante. Idem

39 Les sommes d'argent nécessaires à la Couronne du chef de l'Ontario pour l'application de la présente loi sont prélevées, jusqu'au 31 mars 1988, sur le Fonds du revenu consolidé. Après cette date, ces sommes sont prélevées sur les sommes affectées à cette fin par la Législature. Sommes d'argent

40 La présente loi lie la Couronne du chef de l'Ontario. La Couronne est liée

41 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

42 Le titre abrégé de la présente loi est *Loi de 1987 sur l'équité salariale*. Titre abrégé

ANNEXE

1 Le secteur public en Ontario se compose des éléments suivants :

- a) la Couronne du chef de l'Ontario, les organismes qui en relèvent, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont la majorité des administrateurs, des membres ou des dirigeants sont nommés ou choisis par le lieutenant-gouverneur en conseil ou par un membre du Conseil des ministres ou avec leur approbation;
- b) les municipalités de l'Ontario, les conseils locaux au sens de la *Loi sur les affaires municipales*, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont les membres ou les dirigeants sont nommés ou choisis par le conseil d'une municipalité de l'Ontario ou avec leur approbation; L.R.O. 1980, chap. 303
- c) les conseils au sens de la *Loi sur l'éducation*, ainsi que les collèges, les universités et les établissements d'enseignement postsecondaire de l'Ontario qui reçoivent la majeure partie de leur capital ou de leurs fonds annuels de fonctionnement de la Couronne; L.R.O. 1980, chap. 129
- d) les hôpitaux dont le nom figure à l'annexe du Règlement 863 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur les hôpitaux publics*, les hôpitaux privés exploités aux termes d'un permis délivré en vertu de la *Loi sur les hôpitaux privés*, les hôpitaux établis ou agréés par le lieutenant-gouverneur en conseil à L.R.O. 1980, chap. 410, 389, 79, 391

approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*;

- (e) every corporation with share capital, at least 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- 1983, c. 10 (g) every board of health under the *Health Promotion and Protection Act, 1983*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality;
- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Assembly, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the Appendix to this Schedule or added to the Appendix by the regulations made under this Act.

2. For the purposes of this Schedule, "municipality" includes a metropolitan, regional or district municipality and the County of Oxford.

APPENDIX

MINISTRY OF AGRICULTURE AND FOOD

1. Ontario Dairy Herd Improvement Corporation.

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTRY OF COLLEGES AND UNIVERSITIES

1. Algoma College.
2. Assumption University.
3. Brescia College.
4. Canterbury College.

titre d'hôpitaux psychiatriques communautaires en vertu de la *Loi sur les hôpitaux psychiatriques communautaires*, ainsi que les maisons de santé titulaires d'un permis délivré par le lieutenant-gouverneur en conseil en vertu de la *Loi sur les maisons de santé*;

- e) les personnes morales disposant d'un capital-actions dont au moins 90 pour cent des actions émises sont détenues à titre bénéficiaire par un ou plusieurs employeurs visés aux alinéas a) à d) ou pour le compte de ceux-ci, ainsi que les filiales en propriété exclusive de ces personnes morales;
- f) les personnes morales sans capital-actions dont la majorité des membres ou des dirigeants sont nommés ou choisis par un ou plusieurs des employeurs visés aux alinéas a) à d) ou avec leur approbation, ou en sont membres, ainsi que les filiales en propriété exclusive de ces personnes morales;
- g) les conseils de santé aux termes de la *Loi de 1983 sur la protection et la promotion de la santé*, ainsi que les conseils de santé aux termes d'une loi de la Législature qui crée ou maintient une municipalité régionale; 1983,
chap. 10
- h) le Bureau du lieutenant-gouverneur de l'Ontario et celui de l'Assemblée, les membres de l'Assemblée, le Bureau de l'ombudsman et celui du vérificateur provincial;
- i) les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes et les catégories de ceux-ci qui figurent dans l'appendice à la présente annexe ou qui sont ajoutés à l'appendice au moyen de règlements pris en application de la présente loi.

2 Pour l'application de la présente annexe, le terme «municipalité» s'entend en outre d'une municipalité régionale, de district ou de communauté urbaine, ainsi que du comté d'Oxford.

APPENDICE

MINISTÈRE DE L'AGRICULTURE ET DE L'ALIMENTATION


1. Ontario Dairy Herd Improvement Corporation.

MINISTÈRE DES AFFAIRES CIVIQUES ET CULTURELLES

1. Musée des beaux-arts de l'Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTÈRE DES COLLÈGES ET UNIVERSITÉS

1. Algoma College.
2. Assumption University.
3. Brescia College.
4. Canterbury College.

5. Collège dominicain de philosophie et de théologie.
6. Concordia Lutheran Seminary.
7. Conrad Grebel College.
8. Hearst College.
9. Holy Redeemer College.
10. Huntington University.
11. Huron College.
12. Iona College.
13. King's College.
14. Knox College.
15. L'Université de Sudbury.
16. McMaster Divinity College.
17. Nipissing College.
18. Queen's Theological College.
19. Regis College.
20. Renison College.
21. St. Augustine's Seminary.
22. St. Paul's United College.
23. St. Paul University.
24. St. Peter's Seminary.
25. The University of St. Jerome's College.
26. The University of St. Michael's College.
27. Thorneloe University.
28. Trinity College.
29. Victoria University.
30. Waterloo Lutheran Seminary.
31. Wycliffe College. 

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) children's residences operating under the *Child and Family Services Act, 1984* (c. 55);

5. Collège dominicain de philosophie et de théologie.
6. Concordia Lutheran Seminary.
7. Conrad Grebel College.
8. Collège de Hearst.
9. Holy Redeemer College.
10. Huntington University.
11. Huron College.
12. Iona College.
13. King's College.
14. Knox College.
15. L'Université de Sudbury.
16. McMaster Divinity College.
17. Nipissing College.
18. Queen's Theological College.
19. Regis College.
20. Renison College.
21. St. Augustine's Seminary.
22. St. Paul's United College.
23. Université Saint-Paul.
24. St. Peter's Seminary.
25. The University of St. Jerome's College.
26. The University of St. Michael's College.
27. Thorneloe University.
28. Trinity College.
29. Victoria University.
30. Waterloo Lutheran Seminary.
31. Wycliffe College.




MINISTÈRE DES SERVICES SOCIAUX ET COMMUNAUTAIRES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) les foyers pour enfants qui fonctionnent en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55);

- ▼
- (b) homes for the aged operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (c) counselling services and staff training purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188); ▲
 - (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (e) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (f) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;
 - (g) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (h) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (i) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (j) nursing services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
 - (k) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (l) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
- ▼
- (m) homes for retarded persons and auxiliary residences under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201); ▲
 - (n) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
 - (o) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
 - (p) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);



- b) les foyers pour personnes âgées qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- c) les services de consultation et de formation du personnel qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188); 
- d) les services de consultation qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- e) les centres d'accueil qui fournissent des services qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- f) des programmes d'adaptation au travail en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188) qui sont achetés par des municipalités ou par le ministère des Services sociaux et communautaires;
- g) des services d'appoint pour les personnes atteintes d'un handicap physique qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- h) des services de réadaptation professionnelle financés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- i) des foyers annexes qui fonctionnent ou qui sont financés en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- j) des services de soins infirmiers qui sont achetés ou financés en vertu de la *Loi sur les services d'aides familiales et d'infirmières visiteuses* (L.R.O. 1980, chap. 200);
- k) des ateliers établis en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- l) des services financés en vertu de la *Loi sur les services aux déficients mentaux* (L.R.O. 1980, chap. 118);
-  m) des foyers pour déficients mentaux et des établissements auxiliaires aux termes de la *Loi sur les foyers pour déficients mentaux* (L.R.O. 1980, chap. 201); 
- n) des garderies dont le fonctionnement est assuré par des personnes morales ou des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111) qui reçoivent des subventions directes du ministère des Services sociaux et communautaires;
- o) des garderies et des sociétés de garde d'enfants en maisons privées qui fournissent des services et qui sont financées aux termes d'ententes conclues avec des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111);
- p) des services de consultation en matière de crédit qui reçoivent une aide financière aux termes d'ententes conclues avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);

- (q) young offenders services funded under Part IV of the *Child and Family Services Act, 1984* (c. 55) or under an agreement with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (r) services to children funded or purchased by the Ministry of Community and Social Services under the *Child and Family Services Act, 1984* (c. 55).
2. Societies within the meaning of the *Child and Family Services Act, 1984* (c. 55) and agencies from whom such societies purchase child care services.
3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).
4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).
5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,
- (a) assistance to witnesses, victims of crime or disabled persons;
 - (b) educational, employment search, medical or promotional services;
 - (c) supervision of inmates, parolees, probationers or persons accused of crime;
 - (d) community residential services.

MINISTRY OF EDUCATION

1. Centre franco-ontarien de ressources pédagogiques.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
 - (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);

- q) des services aux jeunes contrevenants qui sont financés aux termes de la partie IV de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ou aux termes d'une entente conclue avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- r) des services aux enfants qui sont financés ou achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55). ▲

2 Les sociétés au sens de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ainsi que les agences auprès desquelles ces sociétés achètent des services de soins aux enfants.

3 Les personnes morales qui assurent le fonctionnement d'établissements de bienfaisance agréés en vertu de la *Loi sur les établissements de bienfaisance* (L.R.O. 1980, chap. 64).

4 Les conseils de gestion qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203).

5 Les commissions de district pour l'administration de l'aide sociale fonctionnant en vertu de la *Loi sur les commissions de district pour l'administration de l'aide sociale* (L.R.O. 1980, chap. 122).

MINISTÈRE DES SERVICES CORRECTIONNELS

1 Les organismes, conseils, commissions, personnes ou sociétés en nom collectif qui fournissent, grâce au financement du ministère des Services correctionnels, les services suivants :

- a) des services d'aide aux témoins, aux victimes d'actes criminels ou aux personnes handicapées;
- b) des services d'enseignement, de recherche d'emploi, des services médicaux ou de promotion;
- c) la surveillance de détenus, de personnes en liberté conditionnelle, de probationnaires ou de personnes accusées d'un acte criminel;
- d) des services de placement en établissement communautaire.

MINISTÈRE DE L'ÉDUCATION

- 1 Centre franco-ontarien de ressources pédagogiques.

MINISTÈRE DE LA SANTÉ

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisation de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) un service d'ambulance, aux termes d'un permis délivré en vertu de la *Loi sur les services d'ambulance* (L.R.O. 1980, chap. 20);
- b) une maison de soins infirmiers, aux termes d'un permis délivré en vertu de la *Loi sur les maisons de soins infirmiers* (L.R.O. 1980, chap. 320);

- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Laboratory and Specimen Collection Centre Licensing Act* (R.S.O. 1980, c. 409);
 - (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Ministry of Health;
 - (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
 - (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or a facility which, by arrangement with any such home care facility,
 - (i) supplies nursing, physiotherapy, occupational therapy or speech therapy services that are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
 - (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
 - (h) a detoxification centre the operation of which is funded in whole or in part by the Ministry of Health;
 - (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Ministry of Health;
 - (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Ministry of Health.
2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).
 3. A laundry that is operated exclusively for one or more than one hospital.
 4. Hospital Food Services—Ontario Inc.
 5. Toronto District Heating Corporation.
 6. Addiction Research Foundation.
 7. The operations in Ontario of the Canadian Red Cross Society, other than the provision by the society of home support services for the elderly and homemaking services.
 8. The Hospital Council of Metropolitan Toronto.
 9. The Hospital Medical Records Institute.

- c) un laboratoire médical ou un centre de prélèvements, aux termes d'un permis délivré en vertu de la *Loi autorisant des laboratoires médicaux et des centres de prélèvements* (L.R.O. 1980, chap. 409);
- d) un établissement psychiatrique au sens de la *Loi sur la santé mentale* (L.R.O. 1980, chap. 262), dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- e) un foyer de soins spéciaux ouvert, agréé ou autorisé en vertu de la *Loi sur les foyers de soins spéciaux* (L.R.O. 1980, chap. 202);
- f) un établissement de soins à domicile au sens du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197) ou un établissement qui, aux termes d'une entente avec l'établissement de soins à domicile en question, répond aux conditions suivantes :
 - (i) fournit des services de soins infirmiers, des services de physiothérapie, d'ergothérapie ou d'orthophonie qui sont des services de soins à domicile assurés aux termes de l'article 44 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197),
 - (ii) a droit au paiement, en contrepartie ou à l'égard de la fourniture des services en question, de frais qui lui sont versés par l'établissement des services à domicile en question;
- g) un centre de rééducation ou un centre pour enfants infirmes qui figure sur la liste de l'Annexe 10 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197);
- h) un centre de désintoxication dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- i) un service communautaire de santé mentale aux adultes dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, aux termes d'une entente conclue par écrit;
- j) un service de placement dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, conformément à une «Entente de service de coordination des placements» ou d'une autre entente conclue par écrit.

2 Un conseil régional de santé établi en vertu de la *Loi sur le ministère de la Santé* (L.R.O. 1980, chap. 280).

3 Une blanchisserie qui est exploitée exclusivement aux fins d'un hôpital ou plus.

4 Services alimentaires hospitaliers—Ontario Inc.

5 Toronto District Heating Corporation.

6 Fondation de la recherche sur la toxicomanie.

7 Les activités en Ontario de la Société canadienne de la Croix-Rouge, autres que la fourniture de services d'appoint à domicile pour les personnes âgées et de services d'aides familiales.

8 The Hospital Council of Metropolitan Toronto.

9 The Hospital Medical Records Institute.

10. The Ontario Cancer Institute.
11. The Ontario Cancer Treatment and Research Foundation.
12. The Ontario Mental Health Foundation.
13. The Toronto Institute of Medical Technology.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

1. Metropolitan Toronto Convention Centre.

MINISTRY OF MUNICIPAL AFFAIRS

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
 - (a) the collection, removal and disposal of garbage and other refuse for a municipality;
 - (b) the operation and maintenance of buses for the conveyance of passengers under an agreement with a municipality.

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission.

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board.

- 10 The Ontario Cancer Institute.
- 11 The Ontario Cancer Treatment and Research Foundation.
- 12 The Ontario Mental Health Foundation.
- 13 The Toronto Institute of Medical Technology.

**MINISTÈRE DE L'INDUSTRIE, DU COMMERCE ET DE LA
TECHNOLOGIE**

- 1 Metropolitan Toronto Convention Centre.

MINISTÈRE DES AFFAIRES MUNICIPALES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) la collecte, l'enlèvement et l'élimination des ordures ménagères et d'autres déchets pour le compte d'une municipalité;
- b) le maintien et l'exploitation d'autobus pour le transport de passagers aux termes d'une entente conclue avec une municipalité.

MINISTÈRE DES RICHESSES NATURELLES

1 Les offices de protection de la nature créés en vertu de la *Loi sur les offices de protection de la nature* (L.R.O. 1980, chap. 85).

MINISTÈRE DU TOURISME ET DES LOISIRS

- 1 St. Clair Parkway Commission.

MINISTÈRE DU TRÉSOR ET DE L'ÉCONOMIE

1 La Commission du régime de retraite des employés municipaux de l'Ontario.



Bill 154

An Act to provide for Pay Equity

The Hon. I. Scott
*Minister responsible for
Women's Issues*

1st Reading November 24th, 1986
2nd Reading February 3rd, 1987
3rd Reading
Royal Assent

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

Projet de loi 154

Loi portant établissement de l'équité salariale

L'honorable I. Scott
*ministre délégué à la
Condition féminine*

1^{re} lecture 24 novembre 1986
2^e lecture 3 février 1987
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le
Comité plénier de l'Assemblée législative)*

EXPLANATORY NOTES

The Bill provides for the redressing of systemic gender discrimination in compensation for work performed by employees in female job classes in the establishments of all employers in the public sector (a defined term) and those employers in the private sector (a defined term) who employ ten or more employees. Among the features of the Bill are the following:

1. Systemic gender discrimination will be identified through comparisons between female job classes (a defined term) and male job classes (a defined term) in terms of compensation and in terms of the value of the work performed. (Section 4)
2. A criterion for determining value is set out. (Section 5)
3. Tests for the achievement of pay equity are set out. (Section 6)
4. Employers must establish and maintain compensation practices that provide for pay equity. (Section 7)
5. Certain differences in compensation such as those resulting from legitimate seniority plans or red-circling are excluded in determining pay equity. (Section 8)
6. An employer cannot reduce compensation to achieve pay equity. (Subsection 9 (1))
7. Intimidation of persons who seek enforcement of the Act or who are participating, or may participate, in enforcement proceedings is prohibited. (Subsection 9 (2))
8. All employers in the public sector and those employers in the private sector who employ at least 100 employees will be required to develop and implement pay equity plans. Employers in the private sector with more than nine and fewer than 100 employees may prepare and implement pay equity plans but are not required to do so. (Parts II and III)
9. Different classes of employers will have different time limits for implementing pay equity. (Clause 13 (2) (e))
10. Provision is made for enriched compensation adjustments for employees in the lowest paid female job classes. (Subsection 13 (3))
11. Each employer will be required to make annual adjustments in rates of compensation equal to at least 1 per cent of the employer's payroll for the preceding year until pay equity is achieved. (Subsections 13 (4) and (5))
12. Employers in the public sector will have seven years from the effective date to implement pay equity plans. (Subsection 13 (7))
13. Pay equity plans bind an employer, the employees of an employer and the bargaining agent, if any, of the employees. (Subsection 13 (9))
14. The employer and the bargaining agent for employees in a bargaining unit will negotiate the pay equity plan for the bargaining unit. (Section 14)

NOTES EXPLICATIVES

Le projet de loi a pour objet d'éliminer la discrimination systémique entre les sexes en ce qui concerne la rétribution du travail effectué par les employés des catégories d'emplois à prédominance féminine qui oeuvrent dans les établissements de tous les employeurs du secteur public (terme défini) et dans ceux des employeurs du secteur privé (terme défini) qui ont à leur service dix employés ou plus. Voici certains points saillants du projet de loi :

1. Repérage de la discrimination systémique entre les sexes au moyen de comparaisons établies entre les catégories d'emplois à prédominance féminine (terme défini) et les catégories d'emplois à prédominance masculine (terme défini) en ce qui concerne la rétribution et la valeur du travail effectué. (Article 4)
2. Établissement d'un critère servant à déterminer la valeur du travail. (Article 5)
3. Établissement de méthodes permettant de déterminer si l'équité salariale est atteinte. (Article 6)
4. Obligation pour les employeurs d'établir et de maintenir des pratiques de rétribution assurant l'équité salariale. (Article 7)
5. Exclusion, pour la détermination de l'équité salariale, de certains écarts de rétribution tels ceux qui sont fondés sur des régimes légitimes d'ancienneté ou sur la pratique du «salaire étoilé». (Article 8)
6. Interdiction à l'employeur de diminuer la rétribution afin d'atteindre l'équité salariale. (Paragraphe 9 (1))
7. Interdiction d'intimider les personnes qui demandent l'application de la loi, qui participent ou pourraient participer à une instance relative à l'exécution de la loi. (Paragraphe 9 (2))
8. Obligation pour tous les employeurs du secteur public, et pour les employeurs du secteur privé qui ont au moins 100 employés à leur service, d'élaborer et de mettre en oeuvre des programmes d'équité salariale. Les employeurs du secteur privé qui ont plus de neuf et moins de 100 employés peuvent élaborer et mettre en oeuvre un programme d'équité salariale, mais ne sont pas obligés de le faire. (Parties II et III)
9. Dates limites différentes selon les différentes catégories d'employeurs pour atteindre l'équité salariale. (Alinéa 13 (2) e))
10. Rajustements plus importants pour les employés des catégories d'emplois à prédominance féminine dont le salaire est le plus bas. (Paragraphe 13 (3))
11. Obligation pour tous les employeurs d'effectuer des rajustements annuels de la rétribution équivalant à au moins 1 pour cent de leur feuille de paie pour l'année précédente, jusqu'à ce que l'équité salariale soit atteinte. (Paragraphes 13 (4) et (5))
12. Établissement d'une période de sept ans à la fin de laquelle les employeurs du secteur public devront avoir atteint l'équité salariale. (Paragraphe 13 (7))
13. Les programmes d'équité salariale lient l'employeur, les employés de l'employeur et leur agent négociateur, le cas échéant. (Paragraphe 13 (9))
14. Négociation d'un programme d'équité salariale relié à une unité de négociation entre l'employeur et l'agent négociateur des employés de l'unité de négociation. (Article 14)

15. The employer will prepare the pay equity plan for employees who are not in a bargaining unit. (Subsection 14 (8) and section 15)
16. Review officers will investigate and attempt to settle pay equity plans where an employer or an employer and a bargaining agent are unable to prepare a pay equity plan by the mandatory posting date (a defined term). Review officers will have the power to settle outstanding matters by order. (Section 16)
17. A pay equity plan shall be deemed to have been approved by the Commission if no objections are filed with the Commission. (Subsections 15 (8) and 16 (5))
18. Small private sector employers will have a transition period before they have to comply with the Act with respect to existing compensation practices in existing establishments (a defined term). (Section 21)
19. The Pay Equity Commission of Ontario is established and will consist of the Pay Equity Office and the Pay Equity Hearings Tribunal. The Pay Equity Office will be responsible for administrative and enforcement matters. The Hearings Tribunal will be responsible for the hearing objections and complaints. (Sections 17, 22, 27 and 33)
20. Fines may be imposed for contraventions of certain provisions of the Act and orders of the Hearings Tribunal. (Section 26)
21. Review officers will be appointed to investigate objections and complaints and to monitor the preparation and implementation of pay equity plans. (Section 35)
22. Provision is made for a review of the Act beginning seven years after the effective date. (Section 37)

15. Élaboration par l'employeur d'un programme d'équité salariale à l'intention des employés qui n'appartiennent pas à une unité de négociation. (Paragraphe 14 (8) et article 15)
16. Des agents de révision mènent des enquêtes et tentent d'amener les parties à accepter un règlement lorsqu'un employeur ou un employeur et un agent négociateur ne peuvent élaborer un programme d'équité salariale à la date d'affichage obligatoire (terme défini). Les agents de révision ont le pouvoir de régler au moyen d'un ordre les questions en souffrance. (Article 16)
17. Approbation réputée d'un plan d'équité salariale par la Commission en l'absence d'oppositions déposées auprès de celle-ci. (Paragraphe 15 (8) et 16 (5))
18. Période de transition accordée aux petits employeurs du secteur privé avant qu'ils ne soient tenus de se conformer à la loi en ce qui concerne les pratiques existantes de rétribution dans leurs établissements (terme défini) existants. (Article 21)
19. Création de la Commission de l'équité salariale de l'Ontario, qui se compose du Bureau de l'équité salariale et du Tribunal de l'équité salariale. Le Bureau de l'équité salariale est chargé des questions administratives et de l'application de la loi. Le Tribunal entend les oppositions et les plaintes. (Articles 17, 22, 27 et 33)
20. Imposition d'amendes pour les contraventions à certaines dispositions de la loi ou aux ordonnances du Tribunal. (Article 26)
21. Nomination d'agents de révision pour enquêter au sujet des oppositions et des plaintes et pour contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale. (Article 35)
22. Examen de la loi sept ans après son entrée en vigueur. (Article 37)

Bill 154**1987****An Act to provide
for Pay Equity****CONTENTS**

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Preamble

Whereas it is desirable that affirmative action be taken to redress gender discrimination in the compensation of employees employed in female job classes in Ontario;

Projet de loi 154

1987

Loi portant établissement
de l'équité salariale

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Attendu qu'il est souhaitable que des mesures concrètes soient prises aux fins d'éliminer la discrimination fondée sur le sexe en matière de rétribution des employés oeuvrant dans des catégories d'emplois à prédominance féminine en Ontario; Préambule

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

PART I

General

Definitions

1.—(1) In this Act,

“agent négociateur”
R.S.O. 1980,
c. 228

“bargaining agent” means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in an establishment and includes an organization representing employees to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such employees;

“convention collective”

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commission”

“Commission” means the Pay Equity Commission of Ontario established by this Act;

“rétribution”

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“date d’entrée en vigueur”

“effective date” means the day this Act comes into force;

“employé”

“employee” does not include a student employed for his or her vacation period;

“établissement”

“establishment” means all of the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under section 14 or decided upon under section 15;

“catégorie d’emplois à prédominance féminine”

“female job class” means, except where there has been a decision that a job class is a male job class as described in clause (b) of the definition of “male job class”,

- (a) a job class in which 60 per cent or more of the members are female,

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

Dispositions générales

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«agent de révision» Personne désignée comme agent de révision aux termes du paragraphe 34 (1). «review officer»

«agent négociateur» S'entend d'un syndicat au sens de la *Loi sur les relations de travail*, en sa qualité d'agent négociateur exclusif aux termes de cette loi à l'égard d'une ou de plusieurs unités de négociation au sein d'un établissement. S'entend en outre d'une organisation qui représente des employés auxquels s'applique la présente loi, si cette organisation est titulaire de droits exclusifs de négociation en vertu d'une autre loi à l'égard de ces employés. «bargaining agent»
L.R.O. 1980,
chap. 228

«catégorie d'emplois» Les postes qui présentent, au sein d'un établissement, des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution, un même niveau de salaire ou une même gamme de taux de salaire. «job class»

«catégorie d'emplois à prédominance féminine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance masculine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance masculine» : «female job class»

- a) d'une catégorie d'emplois dont 60 pour cent ou plus des membres sont des femmes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que le Tribunal décide de désigner comme catégorie d'emplois à prédominance féminine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance féminine.

«catégorie d'emplois à prédominance masculine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine telle que «male job class»

- (b) a job class that a review officer or the Hearings Tribunal decides is a female job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a female job class;

“zone géographique”

“geographic division” means,

R.S.O. 1980,
c. 497

- (a) a county, territorial district or regional municipality described in the *Territorial Division Act*,
- (b) The Municipality of Metropolitan Toronto,

and for the purposes of this Act, the Territorial District of Sudbury and The Regional Municipality of Sudbury shall be considered to be one geographic division;

“Tribunal”

“Hearings Tribunal” means the Pay Equity Hearings Tribunal established by this Act;

“catégorie d'emplois”

“job class” means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates;

“taux de catégorie”

“job rate” means the highest rate of compensation for a job class;

“catégorie d'emplois à prédominance masculine”

“male job class” means, except where there has been a decision that a job class is a female job class as described in clause (b) of the definition of “female job class”,

- (a) a job class in which 70 per cent or more of the members are male, or
- (b) a job class that a review officer or the Hearings Tribunal decides is a male job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a male job class;

“ministre”

“Minister” means the Minister of Labour;

“programme d'équité salariale”

“pay equity plan” means a document as described in section 13;

décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance féminine» :

- a) d'une catégorie d'emplois dont 70 pour cent ou plus des membres sont des hommes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que le Tribunal décide de désigner comme catégorie d'emplois à prédominance masculine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance masculine.

«Commission» La Commission de l'équité salariale de l'Ontario créée par la présente loi. «Commission»

«convention collective» Convention écrite conclue entre un employeur et un agent négociateur et qui traite des conditions d'emploi. «collective agreement»

«date d'entrée en vigueur» Le jour de l'entrée en vigueur de la présente loi. «effective date»

«employé» Sont exclus les étudiants employés pendant leurs vacances. «employee»

«établissement» Tous les employés d'un employeur employés dans une même zone géographique ou des zones géographiques convenues aux termes de l'article 14 ou déterminées aux termes de l'article 15. «establishment»

«ministre» Le ministre du Travail. «Minister»

«programme d'équité salariale» Document décrit à l'article 13. «pay equity plan»

«règlements» Les règlements pris en application de la présente loi. «regulations»

«rétribution» Tous les paiements et avantages versés ou accordés à la personne qui exerce des fonctions lui donnant droit au versement d'une somme fixe ou vérifiable, ou au profit de cette personne. «compensation»

«secteur privé» Tous les employeurs qui ne font pas partie du secteur public. «private sector»

«secteur public» Tous les employeurs qui sont mentionnés à l'annexe. «public sector»

- "secteur privé" "private sector" means all of the employers who are not in the public sector;
- "secteur public" "public sector" means all of the employers who are referred to in the Schedule;
- "règlements" "regulations" means the regulations made under this Act;
- "agent de révision" "review officer" means a person designated as a review officer under subsection 34 (1).
- Posting (2) Where this Act requires that a document be posted in the work place, the employer shall post a copy of the document in prominent places in each work place for the establishment to which the document relates in such a manner that it may be read by all of the employees in the work place.
- Idem (3) The employer shall provide a copy of every document posted in the work place under this Act,
- (a) to the bargaining agent, if any, that represents the employees who are affected by the document;
 - (b) to any employee who requests a copy of the document, if the employee is not represented by a bargaining agent and the employee is affected by the document.
- Calculation of number of employees (4) If Part II or III applies to an employer, a reference in this Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Ontario by the employer during the twelve-month period preceding the effective date or during the period from the day the first employee commenced employment in Ontario with the employer until the effective date, whichever period is shorter.
- Decisions re job classes (5) In deciding or agreeing whether a job class is a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of

«taux de catégorie» Taux de rétribution le plus élevé relié à une catégorie d'emplois donnée. «job rate»

«Tribunal» Le Tribunal de l'équité salariale créé par la présente loi. «Hearings Tribunal»

«zone géographique» S'entend : «geographic division»

- a) d'un comté, d'un district territorial ou d'une municipalité régionale au sens de la *Loi sur la division territoriale*; L.R.O. 1980, chap. 497
- b) de la municipalité de la communauté urbaine de Toronto.

Pour l'application de la présente loi, le district territorial de Sudbury et la municipalité régionale de Sudbury sont considérés comme formant une seule zone géographique.

(2) Lorsque la présente loi exige l'affichage d'un écrit sur les lieux de travail, l'employeur en affiche un exemplaire dans des endroits bien en vue dans chaque lieu de travail de l'établissement auquel se rapporte l'écrit, de façon que tous les employés puissent le consulter. Affichage

(3) L'employeur fournit une copie de chaque écrit affiché sur les lieux de travail aux termes de la présente loi : Idem

- a) à l'agent négociateur, le cas échéant, qui représente les employés qui sont concernés par l'écrit;
- b) à tout employé qui demande une copie de l'écrit, si cet employé n'est pas représenté par un agent négociateur et que l'employé est concerné par l'écrit.

(4) Si les parties II ou III s'appliquent à un employeur, la mention dans la présente loi du nombre d'employés de l'employeur est réputée une mention du nombre moyen d'employés de l'employeur en Ontario au cours de la plus courte des périodes suivantes : soit la période de douze mois qui précède la date d'entrée en vigueur, soit la période qui se situe entre la date du début en Ontario de l'emploi, au service de l'employeur, du premier employé et la date d'entrée en vigueur. Calcul du nombre d'employés

(5) Aux fins de décider si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, ou de convenir de la prédominance d'une catégorie d'emplois, il est tenu compte du sexe des personnes qui exercent traditionnellement ces Détermination de la catégorie d'emplois

work and such other criteria as may be prescribed by the regulations.

One-member
job classes

(6) A job class may consist of only one position if it is unique in the establishment because its duties, responsibilities, qualifications, recruiting procedures or compensation schedule, salary grade or range of salary rates are not similar to those of any other position in the establishment.

Disabled,
etc.,
not to be
classified
separately

(7) A position shall not be assigned to a job class different than that of other positions in the same establishment that have similar duties and responsibilities, require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates only because the needs of the occupant of the position have been accommodated for the purpose of complying with the *Human Rights Code, 1981*.

1981, c. 53

Combined
establish-
ments

2.—(1) Two or more employers and the bargaining agent or agents for their employees, who come together to negotiate a central agreement, may agree that, for the purposes of a pay equity plan, all the employees constitute a single establishment and the employers shall be considered to be a single employer.

Idem

(2) Two or more employers who are municipalities in the same geographic division and the bargaining agent or agents for their employees or, if there is no bargaining agent, the employees, may agree that, for the purposes of a pay equity plan, all the employees constitute a single establishment and the employers shall be considered to be a single employer.

Employers
to implement
plans

(3) Notwithstanding that the employees of two or more employers are considered to be one establishment under subsection (1) or (2), each employer is responsible for implementing and maintaining the pay equity plan with respect to the employer's employees.

Application

3.—(1) This Act applies to all employers in the private sector in Ontario who employ ten or more employees, all employers in the public sector, the employees of employers to whom this Act applies and to their bargaining agents, if any.

emplois, des stéréotypes sexuels attachés à des domaines d'emplois, ainsi que des autres critères qui peuvent être prescrits par les règlements.

(6) Une catégorie d'emplois peut ne comprendre qu'un seul poste, si celui-ci est d'un caractère unique au sein de l'établissement en raison du fait que les fonctions, les responsabilités, les qualités requises, les procédures de recrutement ou la grille de rétribution, le niveau de salaire ou la gamme de taux de salaire qui lui sont reliés ne sont pas semblables à ceux qui sont reliés aux autres postes au sein de l'établissement.

Catégorie d'emplois à membre unique

(7) Un poste ne doit pas, uniquement à cause du fait qu'il a été tenu compte des besoins de son titulaire afin d'observer le *Code des droits de la personne (1981)*, être placé dans une catégorie d'emplois différente de celle d'autres postes du même établissement qui présentent des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution, un même niveau de salaire ou une même gamme de taux de salaire.

Interdiction de classer les personnes handicapées, etc., séparément 1981, chap. 53

2 (1) Lorsque deux employeurs ou plus rencontrent l'agent négociateur ou les agents négociateurs de leurs employés en vue de négocier une convention centrale, ils peuvent convenir qu'aux fins d'un programme d'équité salariale, tous les employés ne constituent qu'un seul établissement et tous les employeurs sont réputés un seul employeur.

Établissements combinés

(2) Deux employeurs ou plus qui sont des municipalités situées dans la même zone géographique et l'agent négociateur ou les agents négociateurs de leurs employés, ou, s'il n'y a pas d'agent négociateur, les employés, peuvent convenir qu'aux fins d'un programme d'équité salariale, les employés ne constituent qu'un seul établissement, et les employeurs sont réputés un seul employeur.

Idem

(3) Malgré le fait que des employés de deux ou plusieurs employeurs sont réputés ne constituer qu'un seul établissement aux termes du paragraphe (1) ou (2), chaque employeur est responsable de la mise en oeuvre et du maintien du programme d'équité salariale visant les employés de l'employeur.

Les employeurs responsables des programmes

3 (1) La présente loi s'applique à tous les employeurs du secteur privé en Ontario qui emploient dix employés ou plus, à tous les employeurs du secteur public, aux employés des employeurs auxquels s'applique la présente loi, ainsi qu'aux agents négociateurs de ces employés, le cas échéant.

Champ d'application

- Idem (2) If at any time after the coming into force of this Act an employer employs ten or more employees in Ontario, this Act applies with respect to the employer although the number of employees is subsequently reduced to fewer than ten.
- Purpose **4.**—(1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.
- Identification of systemic gender discrimination (2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed.
- Value determination **5.**—(1) For the purposes of this Act, the criterion to be applied in determining value of work shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.
- Idem, disabled employees, etc. 1981, c. 53 (2) The fact that an employee's needs have been accommodated for the purpose of complying with the *Human Rights Code, 1981* shall not be considered in determining the value of work performed.
- Achievement of pay equity **6.**—(1) For the purposes of this Act, pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.
- Idem (2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.
- Basis of comparison (3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job

(2) Lorsqu'un employeur emploie dix employés ou plus en Ontario après l'entrée en vigueur de la présente loi, celle-ci s'applique à lui, même si le nombre de ses employés est par la suite réduit à moins de dix. Idem

4 (1) La présente loi a pour objet d'éliminer la discrimination systémique entre les sexes, en ce qui concerne la rétribution du travail effectué par les employés dans les catégories d'emplois à prédominance féminine. Objet

(2) Le repérage de la discrimination systémique entre les sexes en ce qui concerne la rétribution se fait au moyen de comparaisons établies entre chacune des catégories d'emplois à prédominance féminine et les catégories d'emplois à prédominance masculine dans un même établissement au niveau de la rétribution et de la valeur du travail accompli. Repérage de la discrimination systémique entre les sexes

5 (1) Pour l'application de la présente loi, le critère qui sert à déterminer la valeur du travail se fonde sur l'habileté, l'effort et la responsabilité qu'exige normalement l'accomplissement de ce travail, ainsi que sur les conditions dans lesquelles il est normalement effectué. Détermination de la valeur

(2) Le fait qu'il a été tenu compte des besoins d'un employé afin d'observer le *Code des droits de la personne (1981)* n'est pas pris en considération dans la détermination de la valeur du travail effectué. Idem, personnes handicapées, etc. 1981, chap. 53

6 (1) Pour l'application de la présente loi, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie relié à une catégorie d'emplois à prédominance masculine dans le même établissement, si le travail effectué au niveau des deux catégories est de valeur égale ou comparable. Équité salariale atteinte

(2) S'il n'existe aucune catégorie d'emplois à prédominance masculine avec laquelle peut être établie une comparaison pour l'application du paragraphe (1), l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie d'une catégorie d'emplois à prédominance masculine du même établissement qui avait, au moment de la comparaison, un taux de catégorie supérieur, mais qui effectue un travail d'une valeur inférieure à celui de la catégorie d'emplois à prédominance féminine. Idem

(3) Si une catégorie d'emplois à prédominance féminine dans un établissement et des catégories d'emplois à prédominance masculine dans le même établissement se prêtent à plusieurs comparaisons, l'équité salariale est atteinte lorsque le Fondement de la comparaison

rate for the female job class is at least as great as the job rate for the male job class,

- (a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; or
- (b) with the highest job rate, if the work performed in the male job class is of less value.

Idem

(4) Comparisons required by this Act,

- (a) for job classes inside a bargaining unit, shall be made between job classes in the bargaining unit; and
- (b) for job classes outside any bargaining unit, shall be made between job classes that are outside any bargaining unit.

Idem

(5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of the female job class that is the subject of the comparison, the female job class shall be compared to male job classes throughout the establishment.

Groups
of jobs

(6) An employer may treat job classes that are arranged in a group of jobs as one female job class if 60 per cent or more of the employees in the group are female.

Idem

(7) An employer shall treat job classes that are arranged in a group of jobs as one female job class if a review officer or the Commission decides that the group should be treated as one female job class.

Idem

(8) An employer may, with the agreement of the bargaining agent, if any, for the employees of the employer, decide to treat job classes that are arranged in a group of jobs as one female job class.

taux de catégorie relié à la catégorie d'emplois à prédominance féminine est au moins égal au taux de catégorie relié à la catégorie d'emplois à prédominance masculine :

- a) qui a le taux de catégorie le plus bas, si le travail effectué dans les deux catégories d'emplois est de valeur égale ou comparable;
- b) qui a le taux de catégorie le plus élevé, si le travail effectué dans la catégorie d'emplois à prédominance masculine est de valeur inférieure.

(4) Les comparaisons exigées par la présente loi sont établies : Idem

- a) entre des catégories d'emplois qui appartiennent à l'unité de négociation, en ce qui concerne les catégories d'emplois appartenant à une unité de négociation;
- b) entre des catégories d'emplois qui n'appartiennent à aucune unité de négociation, en ce qui concerne les catégories d'emplois n'appartenant pas à une unité de négociation.

(5) Lorsque, après l'application du paragraphe (4), il ne se trouve aucune catégorie d'emplois à prédominance masculine dans laquelle s'effectue un travail de valeur égale ou comparable au travail qui s'effectue dans la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison, celle-ci est comparée aux catégories d'emplois à prédominance masculine de l'ensemble de l'établissement. Idem

(6) L'employeur peut traiter des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine si 60 pour cent ou plus des employés du groupe sont des femmes. Groupes d'emplois

(7) L'employeur traite des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine si un agent de révision ou la Commission décide que le groupe doit être traité comme une catégorie d'emplois à prédominance féminine. Idem

(8) L'employeur peut, avec l'assentiment de l'agent négociateur des employés de l'employeur, le cas échéant, décider de traiter des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine. Idem

Job rate,
value of
work

(9) Where a group of jobs is being treated as a female job class, the job rate of the individual job class within the group that has the greatest number of employees is the job rate for the group and the value of the work performed by that individual job class is the value of the work performed by the group.

Definition
"groupe
d'emplois"

(10) In this section, "group of jobs" means a series of job classes that bear a relationship to each other because of the nature of the work required to perform the work of each job class in the series and that are organized in successive levels.

Pay equity
required

7.—(1) Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

Idem

(2) No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1).

Exclusions
from
determination

8.—(1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

- (a) a formal seniority system that does not discriminate on the basis of gender;
- (b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;
- (c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;
- (d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or

(9) Lorsque l'employeur traite un groupe d'emplois comme une catégorie d'emplois à prédominance féminine, le taux de catégorie de la catégorie d'emplois particulière au sein du groupe qui comporte le plus grand nombre d'employés est le taux de catégorie de ce groupe. La valeur du travail effectué par la catégorie particulière est la valeur du travail effectué par le groupe.

Taux de catégorie, valeur du travail

(10) Dans le présent article, «groupe d'emplois» s'entend d'une série de catégories d'emplois qui sont reliées entre elles en raison de la nature des tâches que comporte chaque catégorie d'emplois de la série, et réparties en grades consécutifs.

Définition «group of jobs»

7 (1) L'employeur établit et maintient des pratiques de rétribution assurant l'équité salariale dans chacun de ses établissements.

Équité salariale obligatoire

(2) Il est interdit à l'employeur et à l'agent négociateur de négocier en vue d'obtenir l'établissement ou le maintien de pratiques de rétribution qui, si elles étaient adoptées, entraîneraient une contravention au paragraphe (1). Il leur est également interdit de convenir de telles pratiques.

Idem

8 (1) La présente loi n'a pas pour effet d'empêcher un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine, si l'employeur peut démontrer que l'écart résulte :

Exceptions

- a) d'un système organisé d'ancienneté exempt de discrimination fondée sur le sexe;
- b) d'un programme d'affectations temporaires de formation ou de perfectionnement des employés dont peuvent se prévaloir également les employés féminins et les employés masculins et qui mène à l'avancement de ceux qui y participent;
- c) d'un régime de rétribution au mérite fondé sur un système organisé d'évaluation du rendement préalablement porté à la connaissance des employés et exempt de discrimination fondée sur le sexe;
- d) de la pratique de gestion du personnel dite du «salaire étoilé» lorsque, à la suite d'un processus non sexiste de réévaluation, un poste a été déclassé et que la rétribution de l'employé a été bloquée ou que toute augmentation de sa rétribution a été suspendue jusqu'à ce que la rétribution reliée au poste déclassé devienne égale ou supérieure à la rétribution de l'employé;

- (e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

Idem (2) After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

Idem (3) A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

Idem (4) A position shall not be designated under subsection (3) if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies to similar full-time work.

Reduction of compensation prohibited **9.—**(1) An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

Intimidation prohibited (2) No employer, employee or bargaining agent and no one acting on behalf of an employer, employee or bargaining agent shall intimidate, coerce or penalize, or discriminate against, a person,

- (a) because the person may participate, or is participating, in a proceeding under this Act;

- e) de l'absence de main-d'oeuvre qualifiée qui engendre une inflation temporaire de la rétribution provoquée par la difficulté qu'éprouve l'employeur à recruter des employés satisfaisant aux exigences des postes au sein d'une catégorie d'emplois.

(2) Lorsque l'équité salariale est atteinte dans un établissement, la présente loi n'a pas pour effet d'empêcher des écarts de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine si l'employeur peut démontrer que l'écart résulte de différences au niveau du pouvoir de négociation. Idem

(3) Aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, il n'est pas nécessaire de tenir compte des postes que l'employeur désigne comme postes qui procurent de l'emploi occasionnel. Les postes ainsi désignés peuvent également être exclus lors des rajustements de la rétribution effectués en vertu d'un programme d'équité salariale. Idem

(4) Un poste n'est pas désigné aux termes du paragraphe (3) si, selon le cas : Idem

- a) la durée du travail est égale ou supérieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps;
- b) le travail est effectué sur une base saisonnière pour le compte du même employeur et dans le cadre du même poste;
- c) le travail est effectué sur une base régulière et continue, quoique durant une période inférieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps.

9 (1) L'employeur ne doit pas diminuer la rétribution payable à un employé ni réduire le taux de rétribution rattaché à un poste afin d'atteindre l'équité salariale. Réduction de la rétribution interdite

(2) Il est interdit à l'employeur, à l'employé, à l'agent négociateur, ainsi qu'à leurs mandataires d'intimider, de contraindre, de pénaliser une personne ou d'exercer une discrimination à son égard pour l'un des motifs suivants : Manoeuvres d'intimidation interdites

- a) elle participe ou pourrait participer à une instance intentée en vertu de la présente loi;

- (b) because the person has made, or may make, a disclosure required in a proceeding under this Act;
- (c) because the person is exercising, or may exercise, any right under this Act; or
- (d) because the person has acted or may act in compliance with this Act, the regulations or an order made under this Act or has sought or may seek the enforcement of this Act, the regulations or an order made under this Act.

Compensation adjustments

(3) Where, to achieve pay equity, it is necessary to increase the rate of compensation for a job class, all positions in the job class shall receive the same adjustment in dollar terms.

PART II

Implementation: Public Sector and Large Private Sector Employers

Definition "date d'affichage obligatoire"

10. In this Part, "mandatory posting date" means,

- (a) the second anniversary of the effective date, in respect of employers in the public sector and in respect of employers in the private sector who have at least 500 employees on the effective date;
- (b) the third anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date;
- (c) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20; and
- (d) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least

- b) elle a déjà fait ou pourrait faire une divulgation exigée lors d'une instance intentée en vertu de la présente loi;
- c) elle exerce ou pourrait exercer un droit en vertu de la présente loi;
- d) elle a déjà agi ou pourrait agir conformément à la présente loi, aux règlements ou à un ordre ou une ordonnance pris en vertu de la présente loi, ou a déjà demandé ou pourrait demander l'exécution de la présente loi, des règlements ou d'un ordre ou d'une ordonnance pris en vertu de la présente loi.

(3) S'il est nécessaire d'augmenter le taux de rétribution d'une catégorie d'emplois afin d'atteindre l'équité salariale, tous les postes dans cette catégorie d'emplois reçoivent le même taux de rajustement, en termes absolus.

Rajustements
de la
rétribution

PARTIE II

Mise en oeuvre : employeurs du secteur public et grands
employeurs du secteur privé

10 Dans la présente partie, «date d'affichage obligatoire» s'entend :

Définition
«mandatory
posting
date»

- a) du deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur public et en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur;
- b) du troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur;
- c) du quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20;
- d) du cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cin-

ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Application

11.—(1) This Part applies to all employers in the public sector, all employers in the private sector who, on the effective date, employ 100 or more employees and those employers in the private sector who post a notice under section 20.

Idem

(2) This Part does not apply to an employer who does not have employees on the effective date.

Comparison
of
job classes

12. Before the mandatory posting date, every employer to whom this Part applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

Pay equity
plans
required

13.—(1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and, without restricting the generality of the foregoing,

(a) shall identify the establishment to which the plan applies; and

(b) shall identify all job classes which formed the basis of the comparisons under section 12.

Idem

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,

(a) shall describe the gender-neutral comparison system used for the purposes of section 12;

(b) shall set out the results of the comparisons carried out under section 12;

(c) shall identify all positions and job classes in which differences in compensation are permitted by sub-

quante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20.

11 (1) La présente partie s'applique à tous les employeurs du secteur public et aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont 100 employés ou plus à leur service, ainsi qu'aux employeurs du secteur privé qui affichent l'avis visé à l'article 20.

Champ
d'application

(2) La présente partie ne s'applique pas à l'employeur qui, à la date d'entrée en vigueur, n'a aucun employé à son service.

Idem

12 Avant la date d'affichage obligatoire, l'employeur auquel s'applique la présente partie établit des comparaisons, au moyen d'un système non sexiste de comparaison, entre les catégories d'emplois à prédominance féminine de chacun de ses établissements et les catégories d'emplois à prédominance masculine des mêmes établissements aux fins de déterminer si l'équité salariale existe à l'égard de chaque catégorie d'emplois à prédominance féminine.

Comparaison
des catégories
d'emplois

13 (1) Il est élaboré, conformément à la présente partie, des documents connus sous l'appellation de programmes d'équité salariale, visant à assurer l'équité salariale à l'égard des catégories d'emplois à prédominance féminine au sein de chacun des établissements de chaque employeur auquel s'applique la présente partie. Ces programmes comprennent notamment :

Programmes
obligatoires
d'équité
salariale

- a) le repérage de l'établissement visé par le programme;
- b) le repérage de toutes les catégories d'emplois sur lesquelles se fondent les comparaisons visées à l'article 12.

(2) Si un établissement comporte à la fois des catégories d'emplois à prédominance féminine et des catégories d'emplois à prédominance masculine, chaque programme d'équité salariale relatif à l'établissement :

Idem

- a) expose le système non sexiste de comparaison utilisé pour l'application de l'article 12;
- b) énonce les résultats des comparaisons établies aux termes de l'article 12;
- c) repère tous les postes et toutes les catégories d'emplois dans lesquels les paragraphes 8 (1) ou (3) per-

section 8 (1) or (3) and give the reasons for relying on such subsection;

- (d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
- (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,
 - (i) the second anniversary of the effective date, in respect of employers in the public sector,
 - (ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,
 - (iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,
 - (iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20, and
 - (v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Idem

(3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until

mettent des écarts de rétribution, et donne les motifs du recours à ces paragraphes;

- d) expose, à l'égard de toutes les catégories d'emplois à prédominance féminine où l'équité salariale n'existe pas selon les comparaisons établies aux termes de l'article 12, le mode de rajustement de la rétribution choisi pour atteindre l'équité salariale;
- e) énonce la date à laquelle seront effectués les premiers rajustements de la rétribution en vertu du programme. Cette date ne peut être postérieure :
 - (i) au deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur public,
 - (ii) au troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur,
 - (iii) au quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur,
 - (iv) au cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20,
 - (v) au sixième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20.

(3) Un programme d'équité salariale prévoit qu'il sera accordé à la catégorie ou aux catégories d'emplois à prédominance féminine qui ont, pendant la période de mise en oeuvre du programme, le taux de catégorie le plus bas, une augmentation du taux de rétribution aux termes du programme qui est supérieure aux augmentations accordées aux termes du programme aux autres catégories d'emplois à prédominance féminine, jusqu'à ce que le taux de catégorie de la catégorie

Idem

such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of,

- (a) the job rate required to achieve pay equity; and
- (b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.

Minimum
adjustments

(4) The first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2) (e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the twelve-month period following the first adjustments shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the first adjustments; and
- (b) the amount required to achieve pay equity.

Idem

(5) Adjustments shall be made in compensation under a pay equity plan on each anniversary of the first adjustments in compensation under the plan and shall be such that during the twelve-month period following each anniversary the combined compensation payable under all pay equity plans of the employer shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the anniversary; and
- (b) the amount required to achieve pay equity.

Maximum
adjustments

(6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless

ou des catégories d'emplois à prédominance féminine qui reçoivent l'augmentation supérieure soit égal au moins élevé des taux suivants :

- a) le taux de catégorie nécessaire pour atteindre l'équité salariale;
- b) le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine ayant droit à un rajustement aux termes du programme et dont le taux de catégorie se classe immédiatement au-dessus de celui de la catégorie ou des catégories d'emplois visées.

(4) Les premiers rajustements de la rétribution en vertu d'un programme d'équité salariale sont versables à la date prévue à l'alinéa (2) e) et sont tels que la rétribution combinée payable aux termes de l'ensemble des programmes d'équité salariale de l'employeur au cours des douze mois qui suivent les premiers rajustements est majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Rajustements
minimaux

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède les premiers rajustements;
- b) la somme nécessaire pour atteindre l'équité salariale.

(5) Chaque anniversaire des premiers rajustements de la rétribution en vertu d'un programme d'équité salariale, des rajustements à la rétribution sont effectués en vertu du programme. Ces rajustements additionnels sont effectués de façon que la rétribution combinée payable aux termes de l'ensemble des programmes d'équité salariale de l'employeur au cours de la période de douze mois qui suit chaque anniversaire soit majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Idem

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède l'anniversaire;
- b) la somme nécessaire pour atteindre l'équité salariale.

(6) Sauf dans le but d'effectuer des rajustements rétroactifs à la rétribution en vertu d'un programme d'équité salariale ou

Rajustements
maximaux

required to do so by an order described in clause 36 (g), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a twelve-month period in an amount greater than 1 per cent of the employer's payroll during the preceding twelve-month period.

Exception

(7) Notwithstanding subsection (6), pay equity plans in the public sector shall provide for adjustments in compensation such that the plan will be fully implemented not later than the seventh anniversary of the effective date.

Definition
"feuille de
paie"

(8) In this section, "payroll" means the total of all wages and salaries payable to the employees in Ontario of the employer.

Pay equity
plan binding

(9) A pay equity plan that is approved under this Part binds the employer and the employees to whom the plan applies and their bargaining agent, if any.

Plan to
prevail

(10) A pay equity plan that is approved under this Part prevails over all relevant collective agreements and the adjustments to rates of compensation required by the plan shall be deemed to be incorporated into and form part of the relevant collective agreements.

Deemed
compliance

(11) Every employer who prepares and implements a pay equity plan under this Part shall be deemed not to be in contravention of subsection 7 (1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date.

Establish-
ments with
bargaining
units

14.—(1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

Bargaining
unit plans

(2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

- (a) the gender-neutral comparison system used for the purposes of section 12; and

à moins qu'il y soit tenu aux termes d'une ordonnance visée à l'alinéa 36 g), la présente loi n'a pas pour effet d'obliger un employeur à majorer la rétribution payable aux termes des programmes d'équité salariale de l'employeur au cours d'une période de douze mois d'une somme qui représente plus de 1 pour cent de la feuille de paie de l'employeur relative à la période précédente de douze mois.

(7) Malgré le paragraphe (6), les programmes d'équité salariale du secteur public prévoient les rajustements de la rétribution de manière à ce que ces programmes soient pleinement mis en oeuvre au plus tard le septième anniversaire de la date d'entrée en vigueur. Exception

(8) Dans le présent article, «feuille de paie» s'entend de la totalité des salaires et traitements payables aux employés de l'employeur en Ontario. Définition
«payroll»

(9) Le programme d'équité salariale approuvé aux termes de la présente partie lie l'employeur et les employés auxquels il s'applique, ainsi que leur agent négociateur, le cas échéant. Le programme
d'équité
salariale lie
les parties

(10) Le programme d'équité salariale approuvé aux termes de la présente partie l'emporte sur toute convention collective pertinente. Les rajustements des taux de rétribution qu'exige le programme sont réputés incorporés aux conventions collectives pertinentes et en faire partie intégrante. Le programme
l'emporte

(11) L'employeur qui prépare et met en oeuvre un programme d'équité salariale aux termes de la présente partie est réputé ne pas contrevenir au paragraphe 7 (1) en ce qui concerne les employés visés par le plan ou les plans qui s'appliquent aux employés, mais seulement en ce qui a trait aux pratiques de rétribution qui existaient immédiatement avant la date d'entrée en vigueur. Conformité
réputée

14 (1) Il doit être élaboré, dans tout établissement où des employés sont représentés par un agent négociateur, un programme d'équité salariale relié à chaque unité de négociation, ainsi qu'un programme d'équité salariale relié à la partie de l'établissement dont les membres n'appartiennent pas à une unité de négociation. Établissements
dotés d'unités de
négociation

(2) L'employeur et l'agent négociateur d'une unité de négociation négocient de bonne foi et s'efforcent de convenir, avant à la date d'affichage obligatoire : Programmes
reliés à une
unité de
négociation

- a) du système non sexiste de comparaison utilisé pour l'application de l'article 12;

(b) a pay equity plan for the bargaining unit.

Idem

(3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

(a) that the establishment of the employer includes two or more geographic divisions; and

(b) that a job class is a female job class or a male job class.

Posting of plan

(4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the work place.

Deemed approval and first adjustments

(5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Failure to agree

(6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

Idem

(7) Subsection (6) does not prevent the bargaining agent from notifying the Commission of a failure to agree on a pay equity plan by the mandatory posting date.

Non-bargaining unit plan

(8) An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(9) Subsections 15 (2) to (8) apply to a pay equity plan described in subsection (8).

Establishments without bargaining units

15.—(1) In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the work place.

- b) d'un programme d'équité salariale relié à l'unité de négociation.

(3) Dans le cadre des négociations exigées par le paragraphe (2), l'employeur et l'agent négociateur peuvent, pour les fins du programme d'équité salariale, convenir de ce qui suit :

- a) que l'établissement de l'employeur comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) L'employeur et l'agent négociateur qui ont convenu d'un programme d'équité salariale y apposent leur signature. À la date d'affichage obligatoire ou antérieurement à celle-ci, l'employeur affiche une copie du programme sur les lieux de travail.

(5) Le programme d'équité salariale qui porte la signature de l'employeur et celle de l'agent négociateur est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

(6) Si l'employeur et l'agent négociateur n'ont pas convenu d'un programme d'équité salariale à la date d'affichage obligatoire, l'employeur en avise sans délai la Commission.

(7) Le paragraphe (6) n'a pas pour effet d'empêcher l'agent négociateur d'aviser la Commission du défaut de convenir d'un programme d'équité salariale à la date d'affichage obligatoire ou antérieurement à celle-ci.

(8) L'employeur élabore un programme d'équité salariale destiné aux employés de son établissement qui n'appartiennent à aucune des unités de négociation de l'établissement. À la date d'affichage obligatoire ou antérieurement à celle-ci, il affiche une copie du programme sur les lieux de travail.

(9) Les paragraphes 15 (2) à (8) s'appliquent au programme d'équité salariale décrit au paragraphe (8).

15 (1) L'employeur dont l'établissement ne compte aucun employé représenté par un agent négociateur élabore un programme d'équité salariale à l'égard de son établissement. L'employeur, à la date d'affichage obligatoire ou antérieurement à celle-ci, affiche une copie du programme sur les lieux de travail.

- Idem (2) For the purposes of a pay equity plan required by this section or subsection 14 (8), the employer may decide,
- (a) that the establishment of the employer includes two or more geographic divisions; and
 - (b) that a job class is a female job class or a male job class.
- Idem (3) An agreement under section 14 between an employer and a bargaining agent shall not affect any pay equity plan required by this section or subsection 14 (8).
- Employee review (4) The employees to whom a pay equity plan required by this section or subsection 14 (8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.
- Changes (5) If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.
- Posting of notice (6) Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the work place a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.
- Objections (7) Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employer under subsection (4).
- Deemed approval and first adjustments (8) If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(2) Pour l'application du programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8), l'employeur peut décider :

Idem

- a) que son établissement comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) L'entente intervenue en vertu de l'article 14 entre l'employeur et l'agent négociateur n'a pas d'incidence sur le programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8).

Idem

(4) Les employés visés par un programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8) peuvent examiner le programme et présenter leurs observations à l'employeur jusqu'au quatre-vingt-dixième jour suivant la date d'affichage obligatoire.

Examen par l'employé

(5) L'employeur qui, à la suite des observations reçues au cours de la période d'examen visée au paragraphe (4), est d'avis que des modifications au programme d'équité salariale s'imposent, peut y apporter des modifications.

Modification

(6) Dans les sept jours qui suivent la fin de la période d'examen visée au paragraphe (4), l'employeur affiche sur les lieux de travail un avis qui indique si le programme d'équité salariale a été modifié ou non aux termes du présent article. Si le programme a été modifié, l'employeur affiche également une copie du programme modifié sur laquelle les modifications sont clairement indiquées.

Affichage d'un avis

(7) Dans les trente jours de l'affichage concernant un programme d'équité salariale aux termes du paragraphe (6), l'employé ou le groupe d'employés visés par le programme peuvent déposer un avis d'opposition auprès de la Commission, qu'ils aient présenté ou non leurs observations à l'employeur aux termes du paragraphe (4).

Oppositions

(8) S'il n'est déposé aucune opposition à un programme d'équité salariale auprès de la Commission en vertu du paragraphe (7), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation réputée et premiers rajustements

Investigation
by review
officer and
settlement

16.—(1) If the Commission,

- (a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 14; or
- (b) receives a notice of objection under subsection 15 (7),

a review officer shall investigate the matter and endeavour to effect a settlement.

Orders by
review officer

(2) If the review officer is unable to effect a settlement as provided for in subsection (1), he or she shall, by order, decide all outstanding matters.

Posting of
plan

(3) Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the work place a copy of the pay equity plan that reflects the settlement or order.

Objections

(4) Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Commission within thirty days of the posting as follows:

1. If the plan relates to a bargaining unit, objections may be filed only if the review officer has made an order under subsection (2) and only the employer or the bargaining agent for the bargaining unit may file objections.
2. If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1) with the agreement of the objector who filed the objection under subsection 15 (7), only an employee or group of employees to whom the plan applies, other than the objector, may file an objection.
3. If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

16 (1) Lorsque la Commission :Enquête par
l'agent de
révision et
règlement

- a) ou bien est avisée par l'employeur ou l'agent négociateur qu'aucune entente n'est intervenue au sujet du programme d'équité salariale aux termes de l'article 14;
- b) ou bien reçoit l'avis d'opposition visé au paragraphe 15 (7),

un agent de révision mène une enquête à ce sujet et tente d'amener les parties à accepter un règlement.

(2) Si l'agent de révision ne peut parvenir à amener les parties à accepter le règlement visé au paragraphe (1), il règle toutes les questions en souffrance au moyen d'un ordre.

Ordre de
l'agent de
révision

(3) Si l'agent de révision amène les parties à accepter un règlement aux termes du paragraphe (1) ou donne un ordre aux termes du paragraphe (2), l'employeur affiche sans délai sur les lieux de travail une copie du programme d'équité salariale qui reflète le règlement ou l'ordre.

Affichage du
programme

(4) Des oppositions au programme d'équité salariale affichés en vertu du paragraphe (3), peuvent être déposés auprès de la Commission dans les trente jours de l'affichage, selon les modalités suivantes :

Oppositions

1. Si le programme est relié à une unité de négociation, des oppositions peuvent être déposées seulement si l'agent de révision a donné un ordre aux termes du paragraphe (2). Dans ce cas, seuls l'employeur ou l'agent négociateur de l'unité de négociation peuvent déposer une opposition.
2. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a amené, aux termes du paragraphe (1), les parties à accepter un règlement avec le consentement de l'opposant qui a déposé l'opposition aux termes du paragraphe 15 (7), seuls un employé ou le groupe d'employés visés par le programme, autre que l'opposant, peuvent déposer une opposition.
3. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a donné un ordre aux termes du paragraphe (2), l'employeur, un employé ou un groupe d'employés visés par le programme peuvent déposer une opposition.

Deemed approval and first adjustments

(5) If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Commission in accordance with subsection (4), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Idem

(6) Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date.

Hearing

17.—(1) If the Commission receives a notice of objection under subsection 16 (4), the Hearings Tribunal shall hold a hearing and, in its decision, shall settle the pay equity plan to which the objection relates.

Posting of plan

(2) Forthwith after receiving the decision of the Hearings Tribunal, the employer shall post a copy of the decision in the work place and, on the day provided for in the plan, shall make the first adjustments in compensation required to achieve pay equity.

Idem

(3) Where adjustments in compensation are made after the day provided for in a pay equity plan, the employer shall make the adjustments retroactive to that date.

PART III

Implementation: Small Private Sector Employers

Application

18. This Part applies only to employers in the private sector who, on the effective date, employ more than nine and fewer than 100 employees.

Pay equity plans

19. An employer to whom this Part applies may establish pay equity plans for any of the employer's establishments.

Posting of notice

20.—(1) An employer who decides to establish a pay equity plan or plans for an establishment, as provided for in section 19, shall give notice of the decision to the bargaining agents, if any, for employees in the establishment and shall post a notice of the decision in the work place.

Application of Part II

(2) Upon the posting of the notice referred to in subsection (1), Part II applies to the establishment to which the notice relates and this Part ceases to apply to the employer with respect to that establishment.

(5) Si un agent de révision amène les parties à accepter, aux termes du paragraphe (1), un règlement relatif à un programme d'équité salariale relié à une unité de négociation, ou que, dans tout autre cas, aucune opposition n'a été déposée auprès de la Commission au sujet d'un programme d'équité salariale aux termes du paragraphe (4), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

(6) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

17 (1) Si la Commission reçoit un avis d'opposition en vertu du paragraphe 16 (4), le Tribunal tient une audience et règle, dans sa décision, le programme d'équité salariale qui fait l'objet de l'opposition.

Audience

(2) Lorsqu'il reçoit la décision du Tribunal, l'employeur en affiche sans délai une copie sur les lieux de travail. À la date prévue au programme, il effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Affichage du
programme

(3) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

PARTIE III

Mise en oeuvre : petits employeurs du secteur privé

18 La présente partie ne s'applique qu'aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont à leur service plus de neuf, mais moins de 100 employés.

Champ
d'application

19 L'employeur auquel s'applique la présente partie peut établir des programmes d'équité salariale à l'égard de chacun de ses établissements.

Programme
d'équité
salariale

20 (1) L'employeur qui décide d'établir, aux termes de l'article 19, un ou plusieurs programmes d'équité salariale à l'égard de son établissement, avise de sa décision les agents négociateurs des employés de son établissement, le cas échéant, et affiche un avis de cette décision sur les lieux de travail.

Affichage de
l'avis

(2) Dès que l'employeur affiche l'avis prévu au paragraphe (1), la partie II s'applique à l'établissement visé par l'avis et la présente partie cesse alors de s'appliquer à l'employeur à l'égard de cet établissement.

Cas d'applica-
tion de la
partie II

Transition

21.—(1) Notwithstanding subsection 7 (1) or (2), an employer to whom this Part applies may maintain compensation practices that were in existence in the employer's establishment immediately before the effective date,

- (a) until the fifth anniversary of the effective date, if the employer employs at least fifty but fewer than 100 employees on the effective date; and
- (b) until the sixth anniversary of the effective date, if the employer employs at least ten but fewer than fifty employees on the effective date,

and, until the relevant anniversary date, a compensation change that is the same in percentage terms for female job classes and male job classes in the establishment shall be deemed not to be a contravention of those subsections even though the change is different in dollar terms for a female job class than for a male job class.

Repeal

(2) This Part is repealed on the sixth anniversary of the effective date.

PART IV

Enforcement

Complaints

22.—(1) Any employer, employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining that there has been a contravention of this Act, the regulations or an order of the Commission.

Idem

(2) Any employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining with respect to a pay equity plan that applies to the employee or group of employees that,

- (a) the plan is not being implemented according to its terms; or
- (b) because of changed circumstances in the establishment, the plan is not appropriate for the female job

21 (1) Malgré les paragraphes 7 (1) ou (2), l'employeur auquel s'applique la présente partie peut maintenir les pratiques de rétribution qui avaient cours dans son établissement immédiatement avant la date d'entrée en vigueur :

Disposition
transitoire

- a) jusqu'au cinquième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins cinquante, mais moins de 100 employés à son service à la date d'entrée en vigueur;
- b) jusqu'au sixième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins dix, mais moins de cinquante employés à son service à la date d'entrée en vigueur.

Jusqu'à l'anniversaire pertinent, la modification de la rétribution qui est la même, en termes de pourcentage, à l'égard des catégories d'emplois à prédominance féminine qu'à l'égard des catégories d'emplois à prédominance masculine dans l'établissement, est réputée ne pas contrevenir à ces paragraphes, même si, en termes absolus, la modification qui est faite à l'égard des catégories d'emplois à prédominance féminine diffère de celle qui est faite à l'égard des catégories d'emplois à prédominance masculine.

(2) La présente partie est abrogée le jour du sixième anniversaire de la date d'entrée en vigueur.

Abrogation

PARTIE IV

Exécution de la loi

22 (1) Un employeur, un employé, un groupe d'employés ou, le cas échéant, un agent négociateur qui représente l'employé ou le groupe d'employés, peuvent déposer auprès de la Commission une plainte signalant qu'il y a eu contravention à la présente loi, aux règlements ou à une ordonnance de la Commission.

Plaintes

(2) Un employé, un groupe d'employés ou, le cas échéant, l'agent négociateur qui représente l'employé ou le groupe d'employés, peuvent déposer auprès de la Commission, à l'égard du programme d'équité salariale qui vise cet employé ou ce groupe d'employés, une plainte précisant, selon le cas :

Idem

- a) que la mise en oeuvre du programme ne s'effectue pas conformément à ses modalités;
- b) qu'en raison d'un changement de la situation au sein de l'établissement, le programme ne convient pas à la catégorie d'emplois à prédominance fémi-

class to which the employee or group of employees belongs.

Combining of
complaints

(3) The Hearings Tribunal may combine two or more complaints and deal with them in one proceeding if the complaints,

- (a) are made against the same person and bring into question the same or a similar issue; or
- (b) have questions of law or fact in common.

Investigation
of complaints

23.—(1) Subject to subsection (2), when the Commission receives a complaint, a review officer shall investigate the complaint and may endeavour to effect a settlement.

Idem

(2) The review officer shall notify the parties and the Hearings Tribunal as soon as he or she decides that a settlement cannot be effected and that he or she will not be making an order under subsection 24 (3).

Decision to
not deal with
complaint

(3) A review officer may decide that a complaint should not be considered if the review officer is of the opinion that,

- (a) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or
- (b) the complaint is not within the jurisdiction of the Commission.

Hearing
before
Tribunal

(4) The review officer shall notify the complainant of his or her decision under subsection (3) and the complainant may request a hearing before the Hearings Tribunal with respect to the decision.

Orders by
review
officers

24.—(1) Where a review officer is of the opinion that a pay equity plan is not being prepared as required by Part II, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

Idem

(2) Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

Idem

(3) Where a review officer is of the opinion that there has been a contravention of subsection 7 (1) or (2), the review officer may order the employer and the bargaining agent, if

nine à laquelle appartiennent l'employé ou le groupe d'employés.

(3) Le Tribunal peut réunir deux ou plusieurs plaintes et en traiter au cours d'une même instance, si ces plaintes, selon le cas :

Réunion de plaintes

- a) sont formulées contre la même personne et se rapportent au même point en litige ou à un point semblable;
- b) soulèvent les mêmes questions de droit ou de fait.

23 (1) Sous réserve du paragraphe (2), un agent de révision mène une enquête concernant la plainte reçue par la Commission et peut tenter d'amener les parties à accepter un règlement.

Enquêtes au sujet des plaintes

(2) Aussitôt que l'agent de révision décide qu'il ne peut pas amener les parties à accepter un règlement et qu'il ne donnera pas d'ordre en vertu du paragraphe 24 (3), il en avise les parties et le Tribunal.

Idem

(3) L'agent de révision peut décider de ne pas examiner la plainte s'il est d'avis que, selon le cas :

Décision de ne pas traiter de la plainte

- a) la plainte est futile, frivole, vexatoire ou faite de mauvaise foi;
- b) la plainte n'est pas du ressort de la Commission.

(4) L'agent de révision avise le plaignant de la décision qu'il a prise aux termes du paragraphe (3), et le plaignant peut demander au Tribunal de tenir une audience à l'égard de la décision.

Audience devant le Tribunal

24 (1) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas en cours d'élaboration tel que l'exige la partie II peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre en vue d'élaborer le programme.

Ordres des agents de révision

(2) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas mis en oeuvre conformément à ses modalités peut ordonner à l'employeur de prendre les mesures énoncées dans son ordre aux fins de mettre en oeuvre le programme.

Idem

(3) L'agent de révision qui est d'avis qu'il y a eu contravention aux paragraphes 7 (1) ou (2) peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesu-

Idem

any, to take such steps as are set out in the order to comply with either or both of those subsections.

Idem

(4) An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 10.

Reference to
Tribunal

(5) Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Hearings Tribunal.

Hearing
before
Tribunal

(6) An employer or bargaining agent named in an order under this section may request a hearing before the Hearings Tribunal with respect to the order, and, where the order was made following a complaint but the complaint has not been settled, the complainant may also request a hearing.

Hearings

25.—(1) The Hearings Tribunal shall hold a hearing,

- (a) if a review officer is unable to effect a settlement of a complaint and has not made an order under subsection 24 (3);
- (b) if a request for a hearing, as described in subsection 23 (4) or 24 (6), is received by the Hearings Tribunal; or
- (c) if a review officer refers a matter to the Hearings Tribunal under subsection 24 (5).

Orders

(2) The Hearings Tribunal shall decide the issue that is before it for a hearing and, without restricting the generality of the foregoing, the Hearings Tribunal,

- (a) where it finds that an employer or a bargaining agent has failed to comply with Part II, may order that a review officer prepare a pay equity plan for the employer's establishment and that the employer and the bargaining agent, if any, or either of them, pay all of the costs of preparing the plan;
- (b) where it finds that an employer has contravened subsection 9 (2) by dismissing, suspending or otherwise penalizing an employee, may order the employer to reinstate the employee, restore the employee's compensation to the same level as before the contravention and pay the employee the

res énoncées dans son ordre aux fins de se conformer à l'un ou l'autre de ces paragraphes ou aux deux.

(4) Un ordre donné aux termes du paragraphe (1) peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 10. Idem

(5) Si l'employeur ou l'agent négociateur ne se conforment pas à l'ordre donné aux termes du présent article, un agent de révision peut renvoyer la question au Tribunal. Renvoi
devant le
Tribunal

(6) Un employeur ou un agent négociateur nommés dans un ordre donné aux termes du présent article peuvent demander au Tribunal de tenir une audience à cet égard. Si l'ordre a été donné à la suite d'une plainte et que la plainte n'a pas fait l'objet d'un règlement, le plaignant peut également demander une audience. Audience
devant le
Tribunal

25 (1) Le Tribunal tient une audience dans les cas suivants : Audiences

- a) si l'agent de révision ne peut amener les parties à accepter un règlement relativement à la plainte et qu'il n'a pas donné d'ordre en vertu du paragraphe 24 (3);
- b) si le Tribunal reçoit une demande d'audience prévue aux paragraphes 23 (4) ou 24 (6);
- c) si l'agent de révision renvoie une question devant le Tribunal aux termes du paragraphe 24 (5).

(2) Le Tribunal règle la question dont il est saisi, et peut notamment : Ordonnances

- a) enjoindre à l'agent de révision d'élaborer un programme d'équité salariale destiné à l'établissement de l'employeur, lorsqu'il constate que ce dernier ou l'agent négociateur ne se sont pas conformés à la partie II. Il peut aussi enjoindre à l'employeur et à l'agent négociateur, le cas échéant, ou à l'un d'eux, d'acquitter la totalité des frais d'élaboration du programme;
- b) lorsqu'elle constate que l'employeur a enfreint le paragraphe 9 (2) en pénalisant un employé, notamment en le renvoyant ou en le suspendant, peut ordonner à l'employeur de réintégrer l'employé dans son emploi, de placer sa rétribution au même niveau qu'avant la contravention et de lui verser le

amount of all compensation lost because of the contravention;

- (c) where it finds that an employer has contravened subsection 9 (1) by reducing compensation, may order the employer to adjust the compensation of all employees affected to the rate to which they would have been entitled but for the reduction in compensation and to pay compensation equal to the amount lost because of the reduction;
- (d) may confirm, vary or revoke orders of review officers;
- (e) may, for the female job class that is the subject of the complaint or reference, order adjustments in compensation in order to achieve pay equity, where the Hearings Tribunal finds that there has been a contravention of subsection 7 (1);
- (f) may order that the pay equity plan be revised in such manner as the Hearings Tribunal considers appropriate, where it finds that the plan is not appropriate for the female job class that is the subject of the complaint or reference because there has been a change of circumstances in the establishment; and
- (g) may order a party to a proceeding to take such action or refrain from such action as in the opinion of the Hearings Tribunal is required in the circumstances.

Idem

(3) An order under clause (2) (a) may provide that a review officer may retain the services of such experts as the review officer considers necessary to prepare a pay equity plan.

Application
of Part II

(4) Part II, except section 16, applies with necessary modifications to a pay equity plan prepared under clause (2) (a) but,

- (a) the order of the Hearings Tribunal may provide for a mandatory posting date that is later than the one provided in section 10;
- (b) the order of the Hearings Tribunal shall not provide for a compensation adjustment date that is different than the relevant date set out in clause 13 (2) (e);

montant entier de la rétribution perdue en raison de la contravention;

- c) lorsqu'il constate que l'employeur a enfreint le paragraphe 9 (1) en diminuant la rétribution, ordonner à l'employeur de rajuster la rétribution de tous les employés concernés au taux auquel ils auraient eu droit n'eût été la diminution, et de verser une rétribution égale au montant perdu en raison de la diminution;
- d) confirmer, modifier ou révoquer les ordres des agents de révision;
- e) ordonner, à l'égard de la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi, que des rajustements de la rétribution soient effectués pour atteindre l'équité salariale, lorsqu'il constate qu'il y a eu contravention au paragraphe 7 (1);
- f) ordonner que le programme d'équité salariale soit révisé de la manière que le Tribunal estime appropriée lorsqu'il constate que le programme ne convient pas à la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi en raison d'un changement de la situation au sein de l'établissement;
- g) enjoindre à une partie à l'instance soit de prendre certaines mesures, soit de s'en abstenir, selon ce que le Tribunal juge nécessaire dans les circonstances.

(3) L'ordonnance prise en vertu de l'alinéa (2) a) peut permettre à l'agent de révision de retenir les services des experts que celui-ci estime nécessaires en vue d'élaborer un programme d'équité salariale. Idem

(4) À l'exception de l'article 16, la partie II s'applique avec les adaptations nécessaires au programme d'équité salariale élaboré en vertu de l'alinéa (2) a). Toutefois : Cas d'application de la partie II

- a) l'ordonnance prise par le Tribunal peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 10;
- b) l'ordonnance du Tribunal ne prévoit pas une date de rajustement de la rétribution différente de la date pertinente énoncée à l'alinéa 13 (2) e);

- (c) the review officer shall perform the duties of the employer and the bargaining agent, if any;
- (d) when the review officer posts the plan in the work place as subsection 14 (4) or 15 (6) provides, the employer, the bargaining agent (if the plan relates to a bargaining unit), or any employee or group of employees to whom the plan applies (if the plan does not relate to a bargaining unit) may file an objection with the Hearings Tribunal; and
- (e) an objection under clause (d) shall be dealt with by the Hearings Tribunal under section 17.

Retroactive compensation adjustments

(5) An order under clause (2) (e) may be retroactive to the day of the contravention of subsection 7 (1).

Idem

(6) An order under clause (2) (f) may provide that adjustments in compensation resulting from the revision of the pay equity plan be made retroactive to the day of the change in circumstances that gave rise to the order.

Offences and penalties

26.—(1) Every person who contravenes or fails to comply with subsection 9 (2) or subsection 35 (5) or an order of the Hearings Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, in the case of an individual, and not more than \$25,000, in any other case.

Parties

(2) If a corporation or bargaining agent contravenes or fails to comply with subsection 9 (2) or subsection 35 (5) or an order of the Hearings Tribunal, every officer, official or agent thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or bargaining agent has been prosecuted or convicted.

Prosecution against bargaining agent

(3) A prosecution for an offence under this Act may be instituted against a bargaining agent in its own name.

Consent

(4) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Hearings Tribunal.

- c) l'agent de révision exerce les fonctions de l'employeur et de l'agent négociateur, le cas échéant;
- d) lorsque l'agent de révision affiche le programme sur les lieux de travail comme le prévoient les paragraphes 14 (4) ou 15 (6), l'employeur, l'agent négociateur (si le programme est relié à une unité de négociation) ou un employé ou un groupe d'employés visés par le programme (si le programme n'est pas relié à une unité de négociation) peuvent déposer une opposition auprès du Tribunal;
- e) le Tribunal traite de l'opposition visée à l'alinéa d) aux termes de l'article 17.

(5) L'ordonnance prise aux termes de l'alinéa (2) e) peut avoir un effet rétroactif au jour de la contravention au paragraphe 7 (1). Rajustements rétroactifs de la rétribution

(6) L'ordonnance prise aux termes de l'alinéa (2) f) peut prévoir que les rajustements de la rétribution résultant de la révision du programme d'équité salariale ont un effet rétroactif au jour où s'est produit le changement de situation qui a donné lieu à l'ordonnance. Idem

26 (1) Quiconque contrevient aux paragraphes 9 (2) ou 35 (5) ou à une ordonnance du Tribunal ou ne s'y conforme pas, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$ dans le cas d'une personne physique, et d'au plus 25 000 \$ dans les autres cas. Infractions et peines

(2) Si une personne morale ou un agent négociateur contreviennent aux paragraphes 9 (2) ou 35 (5) ou à une ordonnance du Tribunal ou ne s'y conforment pas, le dirigeant, l'employé ou le mandataire qui autorise ou permet la contravention ou y donne son consentement est partie à l'infraction, en est coupable et, sur déclaration de culpabilité, est passible de la peine prévue pour cette infraction, que la personne morale ou l'agent négociateur aient été ou non poursuivis ou déclarés coupables de l'infraction. Parties

(3) Une poursuite relative à une infraction à la présente loi peut être intentée contre l'agent négociateur en tant que tel. Poursuite contre l'agent négociateur

(4) Il ne peut être intenté aucune poursuite relative à une infraction à la présente loi sans le consentement écrit du Tribunal. Consentement

PART V

Administration

- Commission established **27.**—(1) There is hereby established a commission to be known as the Pay Equity Commission of Ontario.
- Idem (2) The Commission shall consist of the Pay Equity Hearings Tribunal and the Pay Equity Office.
- Staff (3) Such employees as are necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* to serve in the Pay Equity Office.
- R.S.O. 1980, c. 418
- Services of ministries, etc. (4) The Commission shall, if appropriate, use the services and facilities of a ministry, board, commission or agency of the Government of Ontario.
- Hearings Tribunal **28.**—(1) The Hearings Tribunal shall be composed of a presiding officer, one or more deputy presiding officers and as many other members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.
- Alternate presiding officer (2) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.
- Remuneration and expenses (3) The members of the Hearings Tribunal who are not Crown employees shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.
- Resignation of member (4) Where a member of the Hearings Tribunal resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Hearings Tribunal.
- Powers and duties of Tribunal **29.**—(1) The Hearings Tribunal may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act or the regulations.

PARTIE V

Application de la loi

- 27** (1) Est créée une commission nommée Commission de l'équité salariale de l'Ontario. Création de la Commission
- (2) La Commission se compose du Tribunal de l'équité salariale et du Bureau de l'équité salariale. Idem
- (3) Les employés nécessaires à la conduite efficace des activités de la Commission peuvent être nommés aux termes de la *Loi sur la fonction publique* afin de travailler au Bureau de l'équité salariale. Personnel
L.R.O. 1980, chap. 418
- (4) La Commission se prévaut, si cela est approprié, des services et installations des ministères, commissions ou organismes du gouvernement de l'Ontario. Services des ministères, etc.
- 28** (1) Le Tribunal se compose d'un président, d'un ou de plusieurs vice-présidents, et du nombre d'autres membres répartis en un nombre égal de représentants des employeurs et des employés que le lieutenant-gouverneur en conseil juge approprié. Toutes ces personnes sont nommées par le lieutenant-gouverneur en conseil. Tribunal
- (2) Le lieutenant-gouverneur en conseil désigne l'un des vice-présidents comme président suppléant. Cette personne possède tous les pouvoirs du président si ce dernier est absent ou empêché d'agir. Président suppléant
- (3) Les membres du Tribunal qui ne sont pas des employés de la Couronne reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et, sous réserve de l'approbation du Conseil de gestion du gouvernement, les frais normaux engagés lors de l'exercice de leurs fonctions aux termes de la présente loi. Rémunération et frais
- (4) Le membre du Tribunal qui démissionne peut toutefois exercer les attributions qu'il aurait continué d'avoir s'il n'avait pas démissionné, en ce qui concerne toute question faisant l'objet d'une instance à laquelle il a participé en tant que membre. Démission d'un membre
- 29** (1) Le Tribunal peut exercer les pouvoirs et doit accomplir les obligations qui lui sont conférés par la présente loi ou par les règlements. Attributions du Tribunal

- Idem (2) Without limiting the generality of subsection (1), the Hearings Tribunal,
- (a) may decide in an order made under subsection 17 (1) or clause 25 (2) (a) that any job class is a female job class or a male job class;
 - (b) may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it; and
 - (c) may require that any person seeking a determination of any matter by the Hearings Tribunal shall give written notice, in such form and manner as the Hearings Tribunal specifies, to the persons that the Hearings Tribunal specifies.
- Panels (3) The presiding officer may establish panels of the Hearings Tribunal and it may sit in two or more panels simultaneously so long as a quorum of the Hearings Tribunal is present on each panel.
- Quorum (4) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Hearings Tribunal.
- Decisions (5) The decision of the majority of the members of the Hearings Tribunal present and constituting a quorum is the decision of the Hearings Tribunal, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.
- Exclusive jurisdiction **30.**—(1) The Hearings Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Hearings Tribunal thereon is final and conclusive for all purposes.
- Reconsideration of decisions, etc. (2) The Hearings Tribunal may at any time, if it considers it advisable to do so, reconsider a decision or order made by it and vary or revoke the decision or order.
- Testimony in civil proceedings **31.** Except with the consent of the Hearings Tribunal, no member of the Hearings Tribunal, employee of the Commission or person whose services have been contracted for by the Commission shall be required to testify in any civil proceeding, in any proceeding before the Hearings Tribunal or in any proceeding before any other tribunal respecting information

(2) Le Tribunal possède notamment les attributions ^{Idem} suivantes :

- a) il peut décider, au moyen d'une ordonnance prise aux termes du paragraphe 17 (1) ou de l'alinéa 25 (2) a), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- b) il peut établir des règles concernant la conduite et la gestion de ses affaires, ainsi que des règles de pratique et de procédure à suivre relativement aux questions dont il est saisi;
- c) il peut exiger que la personne qui lui demande de prendre une décision relative à une question quelconque en avise par écrit, de la manière que précise le Tribunal, les personnes qu'il précise.

(3) Le président peut former des comités du Tribunal, qui peut ainsi siéger simultanément en plusieurs comités, pourvu que le quorum du Tribunal soit atteint dans chacun d'eux. ^{Comités}

(4) Le président ou un vice-président, un membre représentant les employeurs et un membre représentant les employés constituent le quorum et peuvent exercer tous les pouvoirs du Tribunal. ^{Quorum}

(5) La décision de la majorité des membres du Tribunal présents qui constituent le quorum est la décision du Tribunal. En cas de partage, le président ou le vice-président a voix prépondérante. ^{Décisions}

30 (1) Le Tribunal a compétence exclusive pour exercer les pouvoirs que lui confère la présente loi et trancher les questions de fait ou de droit soulevées à l'occasion d'une question dont il est saisi. Ses décisions et les mesures qu'il prend sont définitives et ont à toutes fins force de chose jugée. ^{Compétence exclusive}

(2) Le Tribunal peut, chaque fois qu'il le juge à propos, examiner de nouveau, modifier ou annuler ses propres décisions et ordonnances. ^{Nouvel examen des décisions et ordonnances}

31 Sauf si le Tribunal y consent, ses membres, les employés de la Commission et les personnes dont elle a retenu les services par contrat ne peuvent pas être contraints à témoigner lors d'une instance civile ou devant le Tribunal ou tout autre tribunal administratif, en ce qui concerne les rensei- ^{Témoignages lors d'instances civiles}

obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Parties to proceedings

◆ **32.**—(1) Where a hearing is held before the Hearings Tribunal or where a review officer investigates for the purposes of effecting a settlement of an objection or complaint, the parties to the proceeding are,

- (a) the employer;
- (b) the objector or complainant; and
- (c) the bargaining agent (if the pay equity plan relates to a bargaining unit) or the employees to whom the plan relates (if the plan does not relate to a bargaining unit).

Notice

(2) Where the Hearings Tribunal or a review officer requires that a notice be given by the employer to employees, the employer shall post the notice in the work place and such notice shall be deemed to have been sufficiently given to all employees in the work place when it is so posted.

Representation

(3) An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Hearings Tribunal or before a review officer.

Idem

(4) Where an employee or group of employees advises the Hearings Tribunal in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Hearings Tribunal or review officer and not the employee or group of employees.

Idem

(5) Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part IV.

Pay Equity Office

33.—(1) The Pay Equity Office is responsible for the enforcement of this Act and orders of the Hearings Tribunal.

Idem

(2) Without limiting the generality of subsection (1), the Pay Equity Office,

- (a) may conduct research and produce papers concerning any aspect of pay equity and related subjects and make recommendations to the Minister in connection therewith;

gnements obtenus dans l'accomplissement de leurs devoirs ou dans le cadre de leurs fonctions aux termes de la présente loi.

32 (1) Lorsque le Tribunal tient une audience ou qu'un agent de révision mène une enquête en vue d'amener les parties à accepter un règlement relativement à une opposition ou à une plainte, les parties à l'instance sont les suivantes :

Parties à l'instance

- a) l'employeur;
- b) l'opposant ou le plaignant;
- c) l'agent négociateur (si le programme d'équité salariale est relié à une unité de négociation) ou les employés visés par le programme (si celui-ci n'est pas relié à une unité de négociation).

(2) Lorsque le Tribunal ou l'agent de révision exige que l'employeur donne un avis à ses employés, celui-ci affiche l'avis sur les lieux de travail, et l'avis ainsi affiché est réputé suffisant à l'égard de tous les employés du lieu de travail.

Avis

(3) Un employé ou un groupe d'employés peuvent désigner une personne ou une organisation comme leur mandataire devant le Tribunal ou l'agent de révision.

Représentation

(4) Lorsqu'un employé ou un groupe d'employés avisent par écrit le Tribunal de leur désir de garder l'anonymat, leur mandataire devient à leur place la partie à l'instance devant le Tribunal ou l'agent de révision.

Idem

(5) Lorsque le paragraphe (4) s'applique, le mandataire peut, en son nom, prendre toutes les mesures qu'un employé peut prendre aux termes de la présente loi. Il peut notamment déposer une opposition en vertu de la partie II et déposer une plainte en vertu de la partie IV.

Idem

33 (1) Le Bureau de l'équité salariale est chargé de l'exécution de la présente loi et des ordonnances du Tribunal.

Bureau de l'équité salariale

(2) Le Bureau de l'équité salariale possède notamment les attributions suivantes :

Idem

- a) il peut effectuer des recherches et préparer des rapports concernant n'importe quel aspect de l'équité salariale et des questions connexes et peut également formuler des recommandations au ministre en ce qui concerne l'objet de ces recherches ou rapports;

- (b) may conduct public education programs and provide information concerning any aspect of pay equity and related subjects;
- (c) shall provide support services to the Hearings Tribunal;
- (d) shall conduct such studies as the Minister requires and make reports and recommendations in relation thereto; and
- (e) shall conduct a study with respect to systemic gender discrimination in compensation for work performed, in sectors of the economy where employment has traditionally been predominantly female, by female job classes in establishments that have no appropriate male job classes for the purpose of comparison under section 5 and, within one year of the effective date, shall make reports and recommendations to the Minister in relation to redressing such discrimination.

Chief
adminis-
trative
officer

(3) The Lieutenant Governor in Council shall appoint a person to be the head of the Pay Equity Office and that person shall be the chief administrative officer of the Commission.

Minister
may require
studies, etc.

(4) The Minister may require the Pay Equity Office to conduct such studies related to pay equity as are set out in a request to the head of the Office and to make reports and recommendations in relation thereto.

Annual
report

(5) Not later than the 31st day of March in each year, the head of the Pay Equity Office shall make an annual report to the Minister on the activities and affairs of the Commission and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Review
officers,
designation

34.—(1) The head of the Pay Equity Office shall designate one or more employees of the Office to be review officers.

Review
officers,
duties

(2) Review officers shall monitor the preparation and implementation of pay equity plans, shall investigate objections and complaints filed with the Commission, may attempt to effect settlements and shall take such other action as is set out in this Act or in an order of the Hearings Tribunal.

- b) il peut instituer à l'intention du public des programmes d'information concernant n'importe quel aspect de l'équité salariale et des questions connexes;
- c) il fournit des services d'appoint au Tribunal;
- d) il mène les études qu'exige le ministre et prépare des rapports et formule des recommandations en ce qui concerne l'objet de ces études;
- e) il mène une étude au sujet de la discrimination systémique entre les sexes en ce qui concerne la rétribution du travail effectué, dans les secteurs de l'économie où la main-d'oeuvre est traditionnellement à prédominance féminine, par des catégories d'emplois à prédominance féminine dans les établissements qui n'ont pas de catégories d'emplois à prédominance masculine appropriées aux fins d'établir la comparaison visée à l'article 5; dans l'année qui suit la date d'entrée en vigueur, il prépare des rapports et formule des recommandations à l'intention du ministre en vue d'éliminer cette discrimination.

(3) Le lieutenant-gouverneur en conseil nomme une personne à la direction du Bureau de l'équité salariale. Cette personne est le responsable de l'administration de la Commission.

Responsable de l'administration

(4) Le ministre peut exiger que le Bureau de l'équité salariale mène les études liées à l'équité salariale que précise une demande qu'il adresse au dirigeant du Bureau. Il peut également exiger que le Bureau prépare des rapports et formule des recommandations en ce qui concerne l'objet de ces études.

Études exigées par le ministre

(5) Le dirigeant du Bureau de l'équité salariale présente au ministre, au plus tard le 31 mars de chaque année, un rapport annuel sur les activités et affaires de la Commission. Le ministre le dépose devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Rapport annuel

34 (1) Le dirigeant du Bureau de l'équité salariale désigne un ou plusieurs employés du Bureau comme agents de révision.

Désignation des agents de révision

(2) Il incombe aux agents de révision de contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale et de mener des enquêtes au sujet des oppositions et des plaintes qui ont été déposées auprès de la Commission. Ils peuvent tenter d'amener les parties à accepter un règlement.

Fonctions des agents de révision

Powers

(3) A review officer, for the purpose of carrying out his or her duties,

- (a) may enter any place at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination; and
- (e) may provide in an order made under subsection 16 (2) or 24 (1) that any job class is a female job class or a male job class.

Non-application of R.S.O. 1980, c. 484

(4) The *Statutory Powers Procedure Act* does not apply to a review officer and he or she is not required to hold a hearing before making an order authorized by this Act.

Entry to dwellings

35.—(1) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Warrant for search

(2) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Il leur incombe de prendre toute autre mesure prévue par la présente loi ou par une ordonnance du Tribunal.

(3) Dans l'exercice de ses fonctions, l'agent de révision Pouvoirs
peut :

- a) à une heure raisonnable, pénétrer dans un endroit quelconque;
- b) exiger la production, à des fins d'inspection, de documents ou d'objets qui peuvent être reliés à l'exercice de ses fonctions;
- c) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent, les documents ou les objets produits à la suite de la demande formulée en vertu de l'alinéa b), aux fins d'en tirer des copies ou des extraits, après quoi ils sont promptement retournés à la personne qui les a produits;
- d) interroger quiconque sur des questions qui sont ou peuvent être reliées à l'exercice de ses fonctions, sous réserve du droit de cette personne à la présence d'un avocat ou d'un autre représentant lors de l'interrogatoire;
- e) stipuler, dans un ordre donné aux termes des paragraphes 16 (2) ou 24 (1), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) La *Loi sur l'exercice des compétences légales* ne s'applique pas à un agent de révision, et celui-ci n'est pas obligé de tenir une audience avant de donner un ordre autorisé par la présente loi.

Non-application
du chap. 484
des L.R.O.
de 1980

35 (1) Le pouvoir accordé par la présente loi de pénétrer dans un endroit qui sert de logement, ne peut être exercé sans la permission de l'occupant, sauf en vertu d'un mandat délivré aux termes du présent article.

Accès à un
logement

(2) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves à l'agent de révision dans l'exercice de ses fonctions aux termes de la présente loi, peut délivrer un mandat de perquisition rédigé selon la formule prescrite. Le mandat autorise l'agent de révision qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des

Mandat de
perquisition

Warrant for
entry

(3) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

Execution
and
expiry of
warrant

(4) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(5) No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

Idem

(6) Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

Admissibility
of copies

(7) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

PART VI

Regulations and Miscellaneous

Regulations

36. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and notices and providing for their use;
- (b) prescribing methods for determining the historical incumbency of a job class;
- (c) prescribing criteria that shall be taken into account in deciding whether a job class is a female job class or a male job class;

extraits, après quoi elles sont promptement retournées à cet endroit.

(3) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un agent de révision, dans l'exercice de ses fonctions en vertu de la présente loi, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut délivrer un mandat rédigé selon la formule prescrite, autorisant l'agent de révision qui y est nommé à pénétrer dans cet endroit.

Mandat pour pénétrer dans un endroit

(4) Le mandat délivré aux termes du présent article :

Exécution et caducité du mandat

- a) précise les jours et les heures pendant lesquels il peut être exécuté;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de sa délivrance.

(5) Nul ne doit entraver ni gêner un agent de révision dans l'exécution d'un mandat ni d'une autre façon l'empêcher d'exercer ses fonctions aux termes de la présente loi.

Interdiction d'entraver

(6) Sauf si un mandat a été délivré aux termes du paragraphe (2), le paragraphe (5) n'est pas enfreint par le refus d'une personne de produire des documents ou des objets.

Idem

(7) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité des copies

PARTIE VI

Règlements et dispositions diverses

36 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des formules et des avis, et prévoir les modalités de leur emploi;
- b) prescrire les méthodes à utiliser pour déterminer le sexe des personnes qui occupent traditionnellement les postes d'une catégorie d'emplois;
- c) prescrire des critères dont il est tenu compte aux fins de déterminer si une catégorie d'emplois est

- (d) prescribing the method of valuing any form of compensation;
- (e) prescribing criteria that shall be taken into account in determining whether work performed in two job classes is of equal or comparable value;
- (f) prescribing criteria that shall be taken into account in deciding whether or not a difference in compensation between a female job class and a male job class is a difference that is permitted by subsection 8 (1) or (2);
- (g) permitting the Hearings Tribunal, on the application of an employer and in accordance with such criteria as may be prescribed in the regulations, to change the mandatory posting date and the dates for adjustments in compensation to dates later than those set out in Part II and to vary the minimum adjustments in compensation required by that Part, subject to such conditions as the Hearings Tribunal may impose in its order granting the application;
- (h) adding to the Appendix to the Schedule any person or class of persons or any agency, authority, board, commission, corporation or organization of any kind and providing that the mandatory posting date for an entity so added shall be such date as is set out in the regulations.

Review of
Act

37.—(1) Seven years after the effective date, the Lieutenant Governor in Council shall appoint a person who shall undertake a comprehensive review of this Act and its operation.

Report to
Minister

(2) The person appointed under subsection (1) shall prepare a report on his or her findings and shall submit the report to the Minister.

Idem

(3) The Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Moneys

38. The moneys required for the purposes of this Act by the Crown in right of Ontario shall, until the 31st day of March, 1988, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;

- d) prescrire la méthode à utiliser pour déterminer la valeur de toute forme de rétribution;
- e) prescrire des critères dont il est tenu compte aux fins de déterminer si le travail effectué dans deux catégories d'emplois est de valeur égale ou comparable;
- f) prescrire des critères dont il est tenu compte aux fins de déterminer si un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine est un écart permis par les paragraphes 8 (1) ou (2);
- g) permettre au Tribunal, à la demande d'un employeur et conformément aux critères qui peuvent être prescrits dans les règlements, de reporter la date d'affichage obligatoire et les dates des rajustements de la rétribution à des dates postérieures à celles que prévoit la partie II, ainsi que de modifier les rajustements minimaux de la rétribution exigés par cette partie, aux conditions que le Tribunal peut imposer dans l'ordonnance par laquelle il consent à la demande;
- h) ajouter à l'appendice de l'annexe une personne, une catégorie de personnes ou un organisme, un office, un conseil, une commission, une personne morale ou une organisation quelconque, et prévoir que la date d'affichage obligatoire de ces derniers est celle qui figure aux règlements.

37 (1) Sept ans après la date d'entrée en vigueur, le lieutenant-gouverneur en conseil nomme une personne qui procède à l'examen global de la présente loi et des modalités de son application.

Examen de la loi

(2) La personne nommée aux termes du paragraphe (1) rédige un rapport qui énonce ses conclusions et le présente au ministre.

Rapport au ministre

(3) Le ministre dépose le rapport devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Idem

38 Les sommes d'argent nécessaires à la Couronne du chef de l'Ontario pour l'application de la présente loi sont prélevées, jusqu'au 31 mars 1988, sur le Fonds du revenu conso-

Sommes d'argent

- Crown bound **39.** This Act binds the Crown in right of Ontario.
- Commence-
ment **40.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **41.** The short title of this Act is the *Pay Equity Act, 1987*.

SCHEDULE

1. The public sector in Ontario consists of,
- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
- R.S.O. 1980,
c. 303 (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario;
- R.S.O. 1980,
c. 129 (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown;
- R.S.O. 1980,
cc. 410, 389,
79, 391 (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*;
- (e) every corporation with share capital, at least 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- 1983, c. 10 (g) every board of health under the *Health Promotion and Protection Act, 1983*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality;

lidé. Après cette date, ces sommes sont prélevées sur les sommes affectées à cette fin par la Législature.

39 La présente loi lie la Couronne du chef de l'Ontario. La Couronne est liée

40 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

41 Le titre abrégé de la présente loi est *Loi de 1987 sur l'équité salariale*. Titre abrégé

ANNEXE

1 Le secteur public en Ontario se compose des éléments suivants :

- a) la Couronne du chef de l'Ontario, les organismes qui en relèvent, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont la majorité des administrateurs, des membres ou des dirigeants sont nommés ou choisis par le lieutenant-gouverneur en conseil ou par un membre du Conseil des ministres ou avec leur approbation;
- b) les municipalités de l'Ontario, les conseils locaux au sens de la *Loi sur les affaires municipales*, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont les membres ou les dirigeants sont nommés ou choisis par le conseil d'une municipalité de l'Ontario ou avec leur approbation; L.R.O. 1980, chap. 303
- c) les conseils au sens de la *Loi sur l'éducation*, ainsi que les collèges, les universités et les établissements d'enseignement postsecondaire de l'Ontario qui reçoivent la majeure partie de leur capital ou de leurs fonds annuels de fonctionnement de la Couronne; L.R.O. 1980, chap. 129
- d) les hôpitaux dont le nom figure à l'annexe du Règlement 863 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur les hôpitaux publics*, les hôpitaux privés exploités aux termes d'un permis délivré en vertu de la *Loi sur les hôpitaux privés*, les hôpitaux établis ou agréés par le lieutenant-gouverneur en conseil à titre d'hôpitaux psychiatriques communautaires en vertu de la *Loi sur les hôpitaux psychiatriques communautaires*, ainsi que les maisons de santé titulaires d'un permis délivré par le lieutenant-gouverneur en conseil en vertu de la *Loi sur les maisons de santé*; L.R.O. 1980, chap. 410, 389, 79, 391
- e) les personnes morales disposant d'un capital-actions dont au moins 90 pour cent des actions émises sont détenues à titre bénéficiaire par un ou plusieurs employeurs visés aux alinéas a) à d) ou pour le compte de ceux-ci, ainsi que les filiales en propriété exclusive de ces personnes morales;
- f) les personnes morales sans capital-actions dont la majorité des membres ou des dirigeants sont nommés ou choisis par un ou plusieurs des employeurs visés aux alinéas a) à d) ou avec leur approbation, ou en sont membres, ainsi que les filiales en propriété exclusive de ces personnes morales;
- g) les conseils de santé aux termes de la *Loi de 1983 sur la protection et la promotion de la santé*, ainsi que les conseils de santé aux termes d'une loi de la Législature qui crée ou maintient une municipalité régionale; 1983, chap. 10

- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Assembly, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the Appendix to this Schedule or added to the Appendix by the regulations made under this Act.

2. For the purposes of this Schedule, "municipality" includes a metropolitan, regional or district municipality and the County of Oxford.

APPENDIX

MINISTRY OF AGRICULTURE AND FOOD

1. Ontario Dairy Herd Improvement Corporation.

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTRY OF COLLEGES AND UNIVERSITIES

1. Algoma College.
2. Assumption University.
3. Brescia College.
4. Canterbury College.
5. Collège dominicain de philosophie et de théologie.
6. Concordia Lutheran Seminary.
7. Conrad Grebel College.
8. Hearst College.
9. Holy Redeemer College.
10. Huntington University.
11. Huron College.
12. Iona College.
13. King's College.
14. Knox College.
15. L'Université de Sudbury.
16. McMaster Divinity College.

- h) le Bureau du lieutenant-gouverneur de l'Ontario et celui de l'Assemblée, les membres de l'Assemblée, le Bureau de l'ombudsman et celui du vérificateur provincial;
- i) les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes et les catégories de ceux-ci qui figurent dans l'appendice à la présente annexe ou qui sont ajoutés à l'appendice au moyen de règlements pris en application de la présente loi.

2 Pour l'application de la présente annexe, le terme «municipalité» s'entend en outre d'une municipalité régionale, de district ou de communauté urbaine, ainsi que du comté d'Oxford.

APPENDICE

MINISTÈRE DE L'AGRICULTURE ET DE L'ALIMENTATION

1. Ontario Dairy Herd Improvement Corporation.

MINISTÈRE DES AFFAIRES CIVIQUES ET CULTURELLES

1. Musée des beaux-arts de l'Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTÈRE DES COLLÈGES ET UNIVERSITÉS

1. Algoma College.
2. Assumption University.
3. Brescia College.
4. Canterbury College.
5. Collège dominicain de philosophie et de théologie.
6. Concordia Lutheran Seminary.
7. Conrad Grebel College.
8. Collège de Hearst.
9. Holy Redeemer College.
10. Huntington University.
11. Huron College.
12. Iona College.
13. King's College.
14. Knox College.
15. L'Université de Sudbury.
16. McMaster Divinity College.

17. Nipissing College.
18. Queen's Theological College.
19. Regis College.
20. Renison College.
21. St. Augustine's Seminary.
22. St. Paul's United College.
23. St. Paul University.
24. St. Peter's Seminary.
25. The University of St. Jerome's College.
26. The University of St. Michael's College.
27. Thorneloe University.
28. Trinity College.
29. Victoria University.
30. Waterloo Lutheran Seminary.
31. Wycliffe College.

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) children's residences operating under the *Child and Family Services Act, 1984* (c. 55);
- (b) homes for the aged operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
- (c) counselling services and staff training purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
- (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (e) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
- (f) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;

17. Nipissing College.
18. Queen's Theological College.
19. Regis College.
20. Renison College.
21. St. Augustine's Seminary.
22. St. Paul's United College.
23. Université Saint-Paul.
24. St. Peter's Seminary.
25. The University of St. Jerome's College.
26. The University of St. Michael's College.
27. Thorneloe University.
28. Trinity College.
29. Victoria University.
30. Waterloo Lutheran Seminary.
31. Wycliffe College.

MINISTÈRE DES SERVICES SOCIAUX ET COMMUNAUTAIRES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) les foyers pour enfants qui fonctionnent en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55);
- b) les foyers pour personnes âgées qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- c) les services de consultation et de formation du personnel qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- d) les services de consultation qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- e) les centres d'accueil qui fournissent des services qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- f) des programmes d'adaptation au travail en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188) qui sont achetés par des municipalités ou par le ministère des Services sociaux et communautaires;

- (g) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (h) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (i) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
- (j) nursing services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
- (k) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (l) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
- (m) homes for retarded persons and auxiliary residences under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
- (n) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
- (o) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
- (p) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (q) young offenders services funded under Part IV of the *Child and Family Services Act, 1984* (c. 55) or under an agreement with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (r) services to children funded or purchased by the Ministry of Community and Social Services under the *Child and Family Services Act, 1984* (c. 55).

2. Societies within the meaning of the *Child and Family Services Act, 1984* (c. 55) and agencies from whom such societies purchase child care services.

3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).

- g) des services d'appoint pour les personnes atteintes d'un handicap physique qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- h) des services de réadaptation professionnelle financés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- i) des foyers annexes qui fonctionnent ou qui sont financés en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- j) des services de soins infirmiers qui sont achetés ou financés en vertu de la *Loi sur les services d'aides familiales et d'infirmières visiteuses* (L.R.O. 1980, chap. 200);
- k) des ateliers établis en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- l) des services financés en vertu de la *Loi sur les services aux déficients mentaux* (L.R.O. 1980, chap. 118);
- m) des foyers pour déficients mentaux et des établissements auxiliaires aux termes de la *Loi sur les foyers pour déficients mentaux* (L.R.O. 1980, chap. 201);
- n) des garderies dont le fonctionnement est assuré par des personnes morales ou des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111) qui reçoivent des subventions directes du ministère des Services sociaux et communautaires;
- o) des garderies et des sociétés de garde d'enfants en maisons privées qui fournissent des services et qui sont financées aux termes d'ententes conclues avec des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111);
- p) des services de consultation en matière de crédit qui reçoivent une aide financière aux termes d'ententes conclues avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- q) des services aux jeunes contrevenants qui sont financés aux termes de la partie IV de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ou aux termes d'une entente conclue avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- r) des services aux enfants qui sont financés ou achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55).

2 Les sociétés au sens de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ainsi que les agences auprès desquelles ces sociétés achètent des services de soins aux enfants.

3 Les personnes morales qui assurent le fonctionnement d'établissements de bienfaisance agréés en vertu de la *Loi sur les établissements de bienfaisance* (L.R.O. 1980, chap. 64).

4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).

5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,

- (a) assistance to witnesses, victims of crime or disabled persons;
- (b) educational, employment search, medical or promotional services;
- (c) supervision of inmates, parolees, probationers or persons accused of crime;
- (d) community residential services.

MINISTRY OF EDUCATION

- 1. Centre franco-ontarien de ressources pédagogiques.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Laboratory and Specimen Collection Centre Licensing Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Ministry of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or a facility which, by arrangement with any such home care facility,

4 Les conseils de gestion qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203).

5 Les commissions de district pour l'administration de l'aide sociale fonctionnant en vertu de la *Loi sur les commissions de district pour l'administration de l'aide sociale* (L.R.O. 1980, chap. 122).

MINISTÈRE DES SERVICES CORRECTIONNELS

1 Les organismes, conseils, commissions, personnes ou sociétés en nom collectif qui fournissent, grâce au financement du ministère des Services correctionnels, les services suivants :

- a) des services d'aide aux témoins, aux victimes d'actes criminels ou aux personnes handicapées;
- b) des services d'enseignement, de recherche d'emploi, des services médicaux ou de promotion;
- c) la surveillance de détenus, de personnes en liberté conditionnelle, de probationnaires ou de personnes accusées d'un acte criminel;
- d) des services de placement en établissement communautaire.

MINISTÈRE DE L'ÉDUCATION

1 Centre franco-ontarien de ressources pédagogiques.

MINISTÈRE DE LA SANTÉ

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisation de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) un service d'ambulance, aux termes d'un permis délivré en vertu de la *Loi sur les services d'ambulance* (L.R.O. 1980, chap. 20);
- b) une maison de soins infirmiers, aux termes d'un permis délivré en vertu de la *Loi sur les maisons de soins infirmiers* (L.R.O. 1980, chap. 320);
- c) un laboratoire médical ou un centre de prélèvements, aux termes d'un permis délivré en vertu de la *Loi autorisant des laboratoires médicaux et des centres de prélèvements* (L.R.O. 1980, chap. 409);
- d) un établissement psychiatrique au sens de la *Loi sur la santé mentale* (L.R.O. 1980, chap. 262), dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- e) un foyer de soins spéciaux ouvert, agréé ou autorisé en vertu de la *Loi sur les foyers de soins spéciaux* (L.R.O. 1980, chap. 202);
- f) un établissement de soins à domicile au sens du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197) ou un établissement qui, aux termes d'une entente avec l'établissement de soins à domicile en question, répond aux conditions suivantes :

- (i) supplies nursing, physiotherapy, occupational therapy or speech therapy services that are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
 - (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
 - (h) a detoxification centre the operation of which is funded in whole or in part by the Ministry of Health;
 - (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Ministry of Health;
 - (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Ministry of Health.
2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).
 3. A laundry that is operated exclusively for one or more than one hospital.
 4. Hospital Food Services—Ontario Inc.
 5. Toronto District Heating Corporation.
 6. Addiction Research Foundation.
 7. The operations in Ontario of the Canadian Red Cross Society, other than the provision by the society of home support services for the elderly and homemaking services.
 8. The Hospital Council of Metropolitan Toronto.
 9. The Hospital Medical Records Institute.
 10. The Ontario Cancer Institute.
 11. The Ontario Cancer Treatment and Research Foundation.
 12. The Ontario Mental Health Foundation.
 13. The Toronto Institute of Medical Technology.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

1. Metropolitan Toronto Convention Centre.

- (i) fournit des services de soins infirmiers, des services de physiothérapie, d'ergothérapie ou d'orthophonie qui sont des services de soins à domicile assurés aux termes de l'article 44 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197),
- (ii) a droit au paiement, en contrepartie ou à l'égard de la fourniture des services en question, de frais qui lui sont versés par l'établissement des services à domicile en question;
- g) un centre de rééducation ou un centre pour enfants infirmes qui figure sur la liste de l'Annexe 10 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197);
- h) un centre de désintoxication dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- i) un service communautaire de santé mentale aux adultes dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, aux termes d'une entente conclue par écrit;
- j) un service de placement dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, conformément à une «Entente de service de coordination des placements» ou d'une autre entente conclue par écrit.

2 Un conseil régional de santé établi en vertu de la *Loi sur le ministère de la Santé* (L.R.O. 1980, chap. 280).

3 Une blanchisserie qui est exploitée exclusivement aux fins d'un hôpital ou plus.

4 Services alimentaires hospitaliers—Ontario Inc.

5 Toronto District Heating Corporation.

6 Fondation de la recherche sur la toxicomanie.

7 Les activités en Ontario de la Société canadienne de la Croix-Rouge, autres que la fourniture de services d'appoint à domicile pour les personnes âgées et de services d'aides familiales.

8 The Hospital Council of Metropolitan Toronto.

9 The Hospital Medical Records Institute.

10 The Ontario Cancer Institute.

11 The Ontario Cancer Treatment and Research Foundation.

12 The Ontario Mental Health Foundation.

13 The Toronto Institute of Medical Technology.

MINISTÈRE DE L'INDUSTRIE, DU COMMERCE ET DE LA TECHNOLOGIE

1 Metropolitan Toronto Convention Centre.

MINISTRY OF MUNICIPAL AFFAIRS

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) the collection, removal and disposal of garbage and other refuse for a municipality;
- (b) the operation and maintenance of buses for the conveyance of passengers under an agreement with a municipality.

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

- 1. St. Clair Parkway Commission.

MINISTRY OF TREASURY AND ECONOMICS

- 1. Ontario Municipal Employees Retirement Board.

MINISTÈRE DES AFFAIRES MUNICIPALES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) la collecte, l'enlèvement et l'élimination des ordures ménagères et d'autres déchets pour le compte d'une municipalité;
- b) le maintien et l'exploitation d'autobus pour le transport de passagers aux termes d'une entente conclue avec une municipalité.

MINISTÈRE DES RICHESSES NATURELLES

1 Les offices de protection de la nature créés en vertu de la *Loi sur les offices de protection de la nature* (L.R.O. 1980, chap. 85).

MINISTÈRE DU TOURISME ET DES LOISIRS

1 St. Clair Parkway Commission.

MINISTÈRE DU TRÉSOR ET DE L'ÉCONOMIE

1 La Commission du régime de retraite des employés municipaux de l'Ontario.



Bill 154

*(Chapter 34
Statutes of Ontario, 1987)*

An Act to provide for Pay Equity

The Hon. I. Scott
*Minister responsible for
Women's Issues*

<i>1st Reading</i>	November 24th, 1986
<i>2nd Reading</i>	February 3rd, 1987
<i>3rd Reading</i>	June 15th, 1987
<i>Royal Assent</i>	June 29th, 1987

Projet de loi 154

*(Chapitre 34
Lois de l'Ontario de 1987)*

Loi portant établissement de l'équité salariale

L'honorable I. Scott
*ministre délégué à la
Condition féminine*

<i>1^{re} lecture</i>	24 novembre 1986
<i>2^e lecture</i>	3 février 1987
<i>3^e lecture</i>	15 juin 1987
<i>sanction royale</i>	29 juin 1987

Bill 154**1987****An Act to provide
for Pay Equity****CONTENTS**

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Preamble

Whereas it is desirable that affirmative action be taken to redress gender discrimination in the compensation of employees employed in female job classes in Ontario;

Projet de loi 154

1987

Loi portant établissement de l'équité salariale

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Attendu qu'il est souhaitable que des mesures concrètes soient prises aux fins d'éliminer la discrimination fondée sur le sexe en matière de rétribution des employés oeuvrant dans des catégories d'emplois à prédominance féminine en Ontario;

Préambule

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

PART I

General

Definitions

1.—(1) In this Act,

“agent
négociateur”
R.S.O. 1980,
c. 228

“bargaining agent” means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in an establishment and includes an organization representing employees to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such employees;

“convention
collective”

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commis-
sion”

“Commission” means the Pay Equity Commission of Ontario established by this Act;

“rétribution”

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“date
d’entrée
en vigueur”

“effective date” means the day this Act comes into force;

“employé”

“employee” does not include a student employed for his or her vacation period;

“éta-
blissement”

“establishment” means all of the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under section 14 or decided upon under section 15;

“catégorie
d’emplois à
prédominance
féminine”

“female job class” means, except where there has been a decision that a job class is a male job class as described in clause (b) of the definition of “male job class”,

- (a) a job class in which 60 per cent or more of the members are female,

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

Dispositions générales

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«agent de révision» Personne désignée comme agent de révision aux termes du paragraphe 34 (1). «review officer»

«agent négociateur» S'entend d'un syndicat au sens de la *Loi sur les relations de travail*, en sa qualité d'agent négociateur exclusif aux termes de cette loi à l'égard d'une ou de plusieurs unités de négociation au sein d'un établissement. S'entend en outre d'une organisation qui représente des employés auxquels s'applique la présente loi, si cette organisation est titulaire de droits exclusifs de négociation en vertu d'une autre loi à l'égard de ces employés. «bargaining agent»
L.R.O. 1980,
chap. 228

«catégorie d'emplois» Les postes qui présentent, au sein d'un établissement, des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution, un même niveau de salaire ou une même gamme de taux de salaire. «job class»

«catégorie d'emplois à prédominance féminine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance masculine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance masculine» : «female job class»

- a) d'une catégorie d'emplois dont 60 pour cent ou plus des membres sont des femmes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que le Tribunal décide de désigner comme catégorie d'emplois à prédominance féminine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance féminine.

«catégorie d'emplois à prédominance masculine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine telle que «male job class»

- (b) a job class that a review officer or the Hearings Tribunal decides is a female job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a female job class;

“zone géographique”

R.S.O. 1980, c. 497

“geographic division” means,

- (a) a county, territorial district or regional municipality described in the *Territorial Division Act*,

- (b) The Municipality of Metropolitan Toronto,

and for the purposes of this Act, the Territorial District of Sudbury and The Regional Municipality of Sudbury shall be considered to be one geographic division;

“Tribunal”

“Hearings Tribunal” means the Pay Equity Hearings Tribunal established by this Act;

“catégorie d'emplois”

“job class” means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates;

“taux de catégorie”

“job rate” means the highest rate of compensation for a job class;

“catégorie d'emplois à prédominance masculine”

“male job class” means, except where there has been a decision that a job class is a female job class as described in clause (b) of the definition of “female job class”,

- (a) a job class in which 70 per cent or more of the members are male, or

- (b) a job class that a review officer or the Hearings Tribunal decides is a male job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a male job class;

“ministre”

“Minister” means the Minister of Labour;

“programme d'équité salariale”

“pay equity plan” means a document as described in section 13;

décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance féminine» :

- a) d'une catégorie d'emplois dont 70 pour cent ou plus des membres sont des hommes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que le Tribunal décide de désigner comme catégorie d'emplois à prédominance masculine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance masculine.

«Commission» La Commission de l'équité salariale de l'Ontario créée par la présente loi.	«Commission»
«convention collective» Convention écrite conclue entre un employeur et un agent négociateur et qui traite des conditions d'emploi.	«collective agreement»
«date d'entrée en vigueur» Le jour de l'entrée en vigueur de la présente loi.	«effective date»
«employé» Sont exclus les étudiants employés pendant leurs vacances.	«employee»
«établissement» Tous les employés d'un employeur employés dans une même zone géographique ou des zones géographiques convenues aux termes de l'article 14 ou déterminées aux termes de l'article 15.	«establishment»
«ministre» Le ministre du Travail.	«Minister»
«programme d'équité salariale» Document décrit à l'article 13.	«pay equity plan»
«règlements» Les règlements pris en application de la présente loi.	«regulations»
«rétribution» Tous les paiements et avantages versés ou accordés à la personne qui exerce des fonctions lui donnant droit au versement d'une somme fixe ou vérifiable, ou au profit de cette personne.	«compensation»
«secteur privé» Tous les employeurs qui ne font pas partie du secteur public.	«private sector»
«secteur public» Tous les employeurs qui sont mentionnés à l'annexe.	«public sector»

- “secteur privé” “private sector” means all of the employers who are not in the public sector;
- “secteur public” “public sector” means all of the employers who are referred to in the Schedule;
- “règlements” “regulations” means the regulations made under this Act;
- “agent de révision” “review officer” means a person designated as a review officer under subsection 34 (1).
- Posting (2) Where this Act requires that a document be posted in the work place, the employer shall post a copy of the document in prominent places in each work place for the establishment to which the document relates in such a manner that it may be read by all of the employees in the work place.
- Idem (3) The employer shall provide a copy of every document posted in the work place under this Act,
- (a) to the bargaining agent, if any, that represents the employees who are affected by the document;
 - (b) to any employee who requests a copy of the document, if the employee is not represented by a bargaining agent and the employee is affected by the document.
- Calculation of number of employees (4) If Part II or III applies to an employer, a reference in this Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Ontario by the employer during the twelve-month period preceding the effective date or during the period from the day the first employee commenced employment in Ontario with the employer until the effective date, whichever period is shorter.
- Decisions re job classes (5) In deciding or agreeing whether a job class is a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of

«taux de catégorie» Taux de rétribution le plus élevé relié à une catégorie d'emplois donnée. «job rate»

«Tribunal» Le Tribunal de l'équité salariale créé par la présente loi. «Hearings Tribunal»

«zone géographique» S'entend : «geographic division»

a) d'un comté, d'un district territorial ou d'une municipalité régionale au sens de la *Loi sur la division territoriale*; L.R.O. 1980, chap. 497

b) de la municipalité de la communauté urbaine de Toronto.

Pour l'application de la présente loi, le district territorial de Sudbury et la municipalité régionale de Sudbury sont considérés comme formant une seule zone géographique.

(2) Lorsque la présente loi exige l'affichage d'un écrit sur les lieux de travail, l'employeur en affiche un exemplaire dans des endroits bien en vue dans chaque lieu de travail de l'établissement auquel se rapporte l'écrit, de façon que tous les employés puissent le consulter. Affichage

(3) L'employeur fournit une copie de chaque écrit affiché sur les lieux de travail aux termes de la présente loi : Idem

a) à l'agent négociateur, le cas échéant, qui représente les employés qui sont concernés par l'écrit;

b) à tout employé qui demande une copie de l'écrit, si cet employé n'est pas représenté par un agent négociateur et que l'employé est concerné par l'écrit.

(4) Si les parties II ou III s'appliquent à un employeur, la mention dans la présente loi du nombre d'employés de l'employeur est réputée une mention du nombre moyen d'employés de l'employeur en Ontario au cours de la plus courte des périodes suivantes : soit la période de douze mois qui précède la date d'entrée en vigueur, soit la période qui se situe entre la date du début en Ontario de l'emploi, au service de l'employeur, du premier employé et la date d'entrée en vigueur. Calcul du nombre d'employés

(5) Aux fins de décider si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, ou de convenir de la prédominance d'une catégorie d'emplois, il est tenu compte du sexe des personnes qui exercent traditionnellement ces Détermination de la catégorie d'emplois

work and such other criteria as may be prescribed by the regulations.

One-member
job classes

(6) A job class may consist of only one position if it is unique in the establishment because its duties, responsibilities, qualifications, recruiting procedures or compensation schedule, salary grade or range of salary rates are not similar to those of any other position in the establishment.

Disabled,
etc.,
not to be
classed
separately

(7) A position shall not be assigned to a job class different than that of other positions in the same establishment that have similar duties and responsibilities, require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates only because the needs of the occupant of the position have been accommodated for the purpose of complying with the *Human Rights Code, 1981*.

1981, c. 53

Combined
establish-
ments

2.—(1) Two or more employers and the bargaining agent or agents for their employees, who come together to negotiate a central agreement, may agree that, for the purposes of a pay equity plan, all the employees constitute a single establishment and the employers shall be considered to be a single employer.

Idem

(2) Two or more employers who are municipalities in the same geographic division and the bargaining agent or agents for their employees or, if there is no bargaining agent, the employees, may agree that, for the purposes of a pay equity plan, all the employees constitute a single establishment and the employers shall be considered to be a single employer.

Employers
to implement
plans

(3) Notwithstanding that the employees of two or more employers are considered to be one establishment under subsection (1) or (2), each employer is responsible for implementing and maintaining the pay equity plan with respect to the employer's employees.

Application

3.—(1) This Act applies to all employers in the private sector in Ontario who employ ten or more employees, all employers in the public sector, the employees of employers to whom this Act applies and to their bargaining agents, if any.

emplois, des stéréotypes sexuels attachés à des domaines d'emplois, ainsi que des autres critères qui peuvent être prescrits par les règlements.

(6) Une catégorie d'emplois peut ne comprendre qu'un seul poste, si celui-ci est d'un caractère unique au sein de l'établissement en raison du fait que les fonctions, les responsabilités, les qualités requises, les procédures de recrutement ou la grille de rétribution, le niveau de salaire ou la gamme de taux de salaire qui lui sont reliés ne sont pas semblables à ceux qui sont reliés aux autres postes au sein de l'établissement.

Catégorie d'emplois à membre unique

(7) Un poste ne doit pas, uniquement à cause du fait qu'il a été tenu compte des besoins de son titulaire afin d'observer le *Code des droits de la personne (1981)*, être placé dans une catégorie d'emplois différente de celle d'autres postes du même établissement qui présentent des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution, un même niveau de salaire ou une même gamme de taux de salaire.

Interdiction de classer les personnes handicapées, etc., séparément 1981, chap. 53

2 (1) Lorsque deux employeurs ou plus rencontrent l'agent négociateur ou les agents négociateurs de leurs employés en vue de négocier une convention centrale, ils peuvent convenir qu'aux fins d'un programme d'équité salariale, tous les employés ne constituent qu'un seul établissement et tous les employeurs sont réputés un seul employeur.

Établissements combinés

(2) Deux employeurs ou plus qui sont des municipalités situées dans la même zone géographique et l'agent négociateur ou les agents négociateurs de leurs employés, ou, s'il n'y a pas d'agent négociateur, les employés, peuvent convenir qu'aux fins d'un programme d'équité salariale, les employés ne constituent qu'un seul établissement, et les employeurs sont réputés un seul employeur.

Idem

(3) Malgré le fait que des employés de deux ou plusieurs employeurs sont réputés ne constituer qu'un seul établissement aux termes du paragraphe (1) ou (2), chaque employeur est responsable de la mise en oeuvre et du maintien du programme d'équité salariale visant les employés de l'employeur.

Les employeurs responsables des programmes

3 (1) La présente loi s'applique à tous les employeurs du secteur privé en Ontario qui emploient dix employés ou plus, à tous les employeurs du secteur public, aux employés des employeurs auxquels s'applique la présente loi, ainsi qu'aux agents négociateurs de ces employés, le cas échéant.

Champ d'application

- Idem (2) If at any time after the coming into force of this Act an employer employs ten or more employees in Ontario, this Act applies with respect to the employer although the number of employees is subsequently reduced to fewer than ten.
- Purpose **4.**—(1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.
- Identification of systemic gender discrimination (2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed.
- Value determination **5.**—(1) For the purposes of this Act, the criterion to be applied in determining value of work shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.
- Idem, disabled employees, etc. 1981, c. 53 (2) The fact that an employee's needs have been accommodated for the purpose of complying with the *Human Rights Code, 1981* shall not be considered in determining the value of work performed.
- Achievement of pay equity **6.**—(1) For the purposes of this Act, pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.
- Idem (2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.
- Basis of comparison (3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job

(2) Lorsqu'un employeur emploie dix employés ou plus en Ontario après l'entrée en vigueur de la présente loi, celle-ci s'applique à lui, même si le nombre de ses employés est par la suite réduit à moins de dix. Idem

4 (1) La présente loi a pour objet d'éliminer la discrimination systémique entre les sexes, en ce qui concerne la rétribution du travail effectué par les employés dans les catégories d'emplois à prédominance féminine. Objet

(2) Le repérage de la discrimination systémique entre les sexes en ce qui concerne la rétribution se fait au moyen de comparaisons établies entre chacune des catégories d'emplois à prédominance féminine et les catégories d'emplois à prédominance masculine dans un même établissement au niveau de la rétribution et de la valeur du travail accompli. Repérage de la discrimination systémique entre les sexes

5 (1) Pour l'application de la présente loi, le critère qui sert à déterminer la valeur du travail se fonde sur l'habileté, l'effort et la responsabilité qu'exige normalement l'accomplissement de ce travail, ainsi que sur les conditions dans lesquelles il est normalement effectué. Détermination de la valeur

(2) Le fait qu'il a été tenu compte des besoins d'un employé afin d'observer le *Code des droits de la personne (1981)* n'est pas pris en considération dans la détermination de la valeur du travail effectué. Idem, personnes handicapées, etc. 1981, chap. 53

6 (1) Pour l'application de la présente loi, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie relié à une catégorie d'emplois à prédominance masculine dans le même établissement, si le travail effectué au niveau des deux catégories est de valeur égale ou comparable. Équité salariale atteinte

(2) S'il n'existe aucune catégorie d'emplois à prédominance masculine avec laquelle peut être établie une comparaison pour l'application du paragraphe (1), l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie d'une catégorie d'emplois à prédominance masculine du même établissement qui avait, au moment de la comparaison, un taux de catégorie supérieur, mais qui effectue un travail d'une valeur inférieure à celui de la catégorie d'emplois à prédominance féminine. Idem

(3) Si une catégorie d'emplois à prédominance féminine dans un établissement et des catégories d'emplois à prédominance masculine dans le même établissement se prêtent à plusieurs comparaisons, l'équité salariale est atteinte lorsque le Fondement de la comparaison

rate for the female job class is at least as great as the job rate for the male job class,

- (a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; or
- (b) with the highest job rate, if the work performed in the male job class is of less value.

Idem

(4) Comparisons required by this Act,

- (a) for job classes inside a bargaining unit, shall be made between job classes in the bargaining unit; and
- (b) for job classes outside any bargaining unit, shall be made between job classes that are outside any bargaining unit.

Idem

(5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of the female job class that is the subject of the comparison, the female job class shall be compared to male job classes throughout the establishment.

Groups
of jobs

(6) An employer may treat job classes that are arranged in a group of jobs as one female job class if 60 per cent or more of the employees in the group are female.

Idem

(7) An employer shall treat job classes that are arranged in a group of jobs as one female job class if a review officer or the Commission decides that the group should be treated as one female job class.

Idem

(8) An employer may, with the agreement of the bargaining agent, if any, for the employees of the employer, decide to treat job classes that are arranged in a group of jobs as one female job class.

taux de catégorie relié à la catégorie d'emplois à prédominance féminine est au moins égal au taux de catégorie relié à la catégorie d'emplois à prédominance masculine :

- a) qui a le taux de catégorie le plus bas, si le travail effectué dans les deux catégories d'emplois est de valeur égale ou comparable;
- b) qui a le taux de catégorie le plus élevé, si le travail effectué dans la catégorie d'emplois à prédominance masculine est de valeur inférieure.

(4) Les comparaisons exigées par la présente loi sont établies : Idem

- a) entre des catégories d'emplois qui appartiennent à l'unité de négociation, en ce qui concerne les catégories d'emplois appartenant à une unité de négociation;
- b) entre des catégories d'emplois qui n'appartiennent à aucune unité de négociation, en ce qui concerne les catégories d'emplois n'appartenant pas à une unité de négociation.

(5) Lorsque, après l'application du paragraphe (4), il ne se trouve aucune catégorie d'emplois à prédominance masculine dans laquelle s'effectue un travail de valeur égale ou comparable au travail qui s'effectue dans la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison, celle-ci est comparée aux catégories d'emplois à prédominance masculine de l'ensemble de l'établissement. Idem

(6) L'employeur peut traiter des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine si 60 pour cent ou plus des employés du groupe sont des femmes. Groupes d'emplois

(7) L'employeur traite des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine si un agent de révision ou la Commission décide que le groupe doit être traité comme une catégorie d'emplois à prédominance féminine. Idem

(8) L'employeur peut, avec l'assentiment de l'agent négociateur des employés de l'employeur, le cas échéant, décider de traiter des catégories d'emplois qui sont réunies dans un groupe d'emplois comme une seule catégorie d'emplois à prédominance féminine. Idem

Job rate,
value of
work

(9) Where a group of jobs is being treated as a female job class, the job rate of the individual job class within the group that has the greatest number of employees is the job rate for the group and the value of the work performed by that individual job class is the value of the work performed by the group.

Definition
"groupe
d'emplois"

(10) In this section, "group of jobs" means a series of job classes that bear a relationship to each other because of the nature of the work required to perform the work of each job class in the series and that are organized in successive levels.

Pay equity
required

7.—(1) Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

Idem

(2) No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1).

Exclusions
from
determination

8.—(1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

- (a) a formal seniority system that does not discriminate on the basis of gender;
- (b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;
- (c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;
- (d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or

(9) Lorsque l'employeur traite un groupe d'emplois comme une catégorie d'emplois à prédominance féminine, le taux de catégorie de la catégorie d'emplois particulière au sein du groupe qui comporte le plus grand nombre d'employés est le taux de catégorie de ce groupe. La valeur du travail effectué par la catégorie particulière est la valeur du travail effectué par le groupe.

Taux de
catégorie,
valeur du
travail

(10) Dans le présent article, «groupe d'emplois» s'entend d'une série de catégories d'emplois qui sont reliées entre elles en raison de la nature des tâches que comporte chaque catégorie d'emplois de la série, et réparties en grades consécutifs.

Définition
«group of
jobs»

7 (1) L'employeur établit et maintient des pratiques de rétribution assurant l'équité salariale dans chacun de ses établissements.

Équité
salariale
obligatoire

(2) Il est interdit à l'employeur et à l'agent négociateur de négociier en vue d'obtenir l'établissement ou le maintien de pratiques de rétribution qui, si elles étaient adoptées, entraîneraient une contravention au paragraphe (1). Il leur est également interdit de convenir de telles pratiques.

Idem

8 (1) La présente loi n'a pas pour effet d'empêcher un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine, si l'employeur peut démontrer que l'écart résulte :

Exceptions

- a) d'un système organisé d'ancienneté exempt de discrimination fondée sur le sexe;
- b) d'un programme d'affectations temporaires de formation ou de perfectionnement des employés dont peuvent se prévaloir également les employés féminins et les employés masculins et qui mène à l'avancement de ceux qui y participent;
- c) d'un régime de rétribution au mérite fondé sur un système organisé d'évaluation du rendement préalablement porté à la connaissance des employés et exempt de discrimination fondée sur le sexe;
- d) de la pratique de gestion du personnel dite du «salaire étoilé» lorsque, à la suite d'un processus non sexiste de réévaluation, un poste a été déclassé et que la rétribution de l'employé a été bloquée ou que toute augmentation de sa rétribution a été suspendue jusqu'à ce que la rétribution reliée au poste déclassé devienne égale ou supérieure à la rétribution de l'employé;

- (e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

Idem

(2) After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

Idem

(3) A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

Idem

(4) A position shall not be designated under subsection (3) if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies to similar full-time work.

Reduction of
compensation
prohibited

9.—(1) An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

Intimidation
prohibited

(2) No employer, employee or bargaining agent and no one acting on behalf of an employer, employee or bargaining agent shall intimidate, coerce or penalize, or discriminate against, a person,

- (a) because the person may participate, or is participating, in a proceeding under this Act;

- e) de l'absence de main-d'oeuvre qualifiée qui engendre une inflation temporaire de la rétribution provoquée par la difficulté qu'éprouve l'employeur à recruter des employés satisfaisant aux exigences des postes au sein d'une catégorie d'emplois.

(2) Lorsque l'équité salariale est atteinte dans un établissement, la présente loi n'a pas pour effet d'empêcher des écarts de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine si l'employeur peut démontrer que l'écart résulte de différences au niveau du pouvoir de négociation. Idem

(3) Aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, il n'est pas nécessaire de tenir compte des postes que l'employeur désigne comme postes qui procurent de l'emploi occasionnel. Les postes ainsi désignés peuvent également être exclus lors des rajustements de la rétribution effectués en vertu d'un programme d'équité salariale. Idem

(4) Un poste n'est pas désigné aux termes du paragraphe (3) si, selon le cas : Idem

- a) la durée du travail est égale ou supérieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps;
- b) le travail est effectué sur une base saisonnière pour le compte du même employeur et dans le cadre du même poste;
- c) le travail est effectué sur une base régulière et continue, quoique durant une période inférieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps.

9 (1) L'employeur ne doit pas diminuer la rétribution payable à un employé ni réduire le taux de rétribution rattaché à un poste afin d'atteindre l'équité salariale. Réduction de la rétribution interdite

(2) Il est interdit à l'employeur, à l'employé, à l'agent négociateur, ainsi qu'à leurs mandataires d'intimider, de contraindre, de pénaliser une personne ou d'exercer une discrimination à son égard pour l'un des motifs suivants : Manoeuvres d'intimidation interdites

- a) elle participe ou pourrait participer à une instance intentée en vertu de la présente loi;

- (b) because the person has made, or may make, a disclosure required in a proceeding under this Act;
- (c) because the person is exercising, or may exercise, any right under this Act; or
- (d) because the person has acted or may act in compliance with this Act, the regulations or an order made under this Act or has sought or may seek the enforcement of this Act, the regulations or an order made under this Act.

Compensation
adjustments

(3) Where, to achieve pay equity, it is necessary to increase the rate of compensation for a job class, all positions in the job class shall receive the same adjustment in dollar terms.

PART II

Implementation: Public Sector and Large Private Sector Employers

Definition
"date
d'affichage
obligatoire"

10. In this Part, "mandatory posting date" means,

- (a) the second anniversary of the effective date, in respect of employers in the public sector and in respect of employers in the private sector who have at least 500 employees on the effective date;
- (b) the third anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date;
- (c) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20; and
- (d) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least

- b) elle a déjà fait ou pourrait faire une divulgation exigée lors d'une instance intentée en vertu de la présente loi;
- c) elle exerce ou pourrait exercer un droit en vertu de la présente loi;
- d) elle a déjà agi ou pourrait agir conformément à la présente loi, aux règlements ou à un ordre ou une ordonnance pris en vertu de la présente loi, ou a déjà demandé ou pourrait demander l'exécution de la présente loi, des règlements ou d'un ordre ou d'une ordonnance pris en vertu de la présente loi.

(3) S'il est nécessaire d'augmenter le taux de rétribution d'une catégorie d'emplois afin d'atteindre l'équité salariale, tous les postes dans cette catégorie d'emplois reçoivent le même taux de rajustement, en termes absolus.

Rajustements
de la
rétribution

PARTIE II

Mise en oeuvre : employeurs du secteur public et grands
employeurs du secteur privé

10 Dans la présente partie, «date d'affichage obligatoire» s'entend :

Définition
«mandatory
posting
date»

- a) du deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur public et en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur;
- b) du troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur;
- c) du quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20;
- d) du cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cin-

ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Application

11.—(1) This Part applies to all employers in the public sector, all employers in the private sector who, on the effective date, employ 100 or more employees and those employers in the private sector who post a notice under section 20.

Idem

(2) This Part does not apply to an employer who does not have employees on the effective date.

Comparison
of
job classes

12. Before the mandatory posting date, every employer to whom this Part applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

Pay equity
plans
required

13.—(1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and, without restricting the generality of the foregoing,

- (a) shall identify the establishment to which the plan applies; and
- (b) shall identify all job classes which formed the basis of the comparisons under section 12.

Idem

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,

- (a) shall describe the gender-neutral comparison system used for the purposes of section 12;
- (b) shall set out the results of the comparisons carried out under section 12;
- (c) shall identify all positions and job classes in which differences in compensation are permitted by sub-

quante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20.

11 (1) La présente partie s'applique à tous les employeurs du secteur public et aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont 100 employés ou plus à leur service, ainsi qu'aux employeurs du secteur privé qui affichent l'avis visé à l'article 20.

Champ
d'application

(2) La présente partie ne s'applique pas à l'employeur qui, à la date d'entrée en vigueur, n'a aucun employé à son service.

Idem

12 Avant la date d'affichage obligatoire, l'employeur auquel s'applique la présente partie établit des comparaisons, au moyen d'un système non sexiste de comparaison, entre les catégories d'emplois à prédominance féminine de chacun de ses établissements et les catégories d'emplois à prédominance masculine des mêmes établissements aux fins de déterminer si l'équité salariale existe à l'égard de chaque catégorie d'emplois à prédominance féminine.

Comparaison
des catégories
d'emplois

13 (1) Il est élaboré, conformément à la présente partie, des documents connus sous l'appellation de programmes d'équité salariale, visant à assurer l'équité salariale à l'égard des catégories d'emplois à prédominance féminine au sein de chacun des établissements de chaque employeur auquel s'applique la présente partie. Ces programmes comprennent notamment :

Programmes
obligatoires
d'équité
salariale

- a) le repérage de l'établissement visé par le programme;
- b) le repérage de toutes les catégories d'emplois sur lesquelles se fondent les comparaisons visées à l'article 12.

(2) Si un établissement comporte à la fois des catégories d'emplois à prédominance féminine et des catégories d'emplois à prédominance masculine, chaque programme d'équité salariale relatif à l'établissement :

Idem

- a) expose le système non sexiste de comparaison utilisé pour l'application de l'article 12;
- b) énonce les résultats des comparaisons établies aux termes de l'article 12;
- c) repère tous les postes et toutes les catégories d'emplois dans lesquels les paragraphes 8 (1) ou (3) per-

section 8 (1) or (3) and give the reasons for relying on such subsection;

- (d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
- (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,
 - (i) the second anniversary of the effective date, in respect of employers in the public sector,
 - (ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,
 - (iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,
 - (iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 20, and
 - (v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 20.

Idem

(3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until

mettent des écarts de rétribution, et donne les motifs du recours à ces paragraphes;

- d) expose, à l'égard de toutes les catégories d'emplois à prédominance féminine où l'équité salariale n'existe pas selon les comparaisons établies aux termes de l'article 12, le mode de rajustement de la rétribution choisi pour atteindre l'équité salariale;
- e) énonce la date à laquelle seront effectués les premiers rajustements de la rétribution en vertu du programme. Cette date ne peut être postérieure :
 - (i) au deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur public,
 - (ii) au troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur,
 - (iii) au quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur,
 - (iv) au cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20,
 - (v) au sixième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 20.

(3) Un programme d'équité salariale prévoit qu'il sera accordé à la catégorie ou aux catégories d'emplois à prédominance féminine qui ont, pendant la période de mise en oeuvre du programme, le taux de catégorie le plus bas, une augmentation du taux de rétribution aux termes du programme qui est supérieure aux augmentations accordées aux termes du programme aux autres catégories d'emplois à prédominance féminine, jusqu'à ce que le taux de catégorie de la catégorie

Idem

such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of,

- (a) the job rate required to achieve pay equity; and
- (b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.

Minimum
adjustments

(4) The first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2) (e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the twelve-month period following the first adjustments shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the first adjustments; and
- (b) the amount required to achieve pay equity.

Idem

(5) Adjustments shall be made in compensation under a pay equity plan on each anniversary of the first adjustments in compensation under the plan and shall be such that during the twelve-month period following each anniversary the combined compensation payable under all pay equity plans of the employer shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the anniversary; and
- (b) the amount required to achieve pay equity.

Maximum
adjustments

(6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless

ou des catégories d'emplois à prédominance féminine qui reçoivent l'augmentation supérieure soit égal au moins élevé des taux suivants :

- a) le taux de catégorie nécessaire pour atteindre l'équité salariale;
- b) le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine ayant droit à un rajustement aux termes du programme et dont le taux de catégorie se classe immédiatement au-dessus de celui de la catégorie ou des catégories d'emplois visées.

(4) Les premiers rajustements de la rétribution en vertu d'un programme d'équité salariale sont versables à la date prévue à l'alinéa (2) e) et sont tels que la rétribution combinée payable aux termes de l'ensemble des programmes d'équité salariale de l'employeur au cours des douze mois qui suivent les premiers rajustements est majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Rajustements
minimaux

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède les premiers rajustements;
- b) la somme nécessaire pour atteindre l'équité salariale.

(5) Chaque anniversaire des premiers rajustements de la rétribution en vertu d'un programme d'équité salariale, des rajustements à la rétribution sont effectués en vertu du programme. Ces rajustements additionnels sont effectués de façon que la rétribution combinée payable aux termes de l'ensemble des programmes d'équité salariale de l'employeur au cours de la période de douze mois qui suit chaque anniversaire soit majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Idem

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède l'anniversaire;
- b) la somme nécessaire pour atteindre l'équité salariale.

(6) Sauf dans le but d'effectuer des rajustements rétroactifs à la rétribution en vertu d'un programme d'équité salariale ou

Rajustements
maximaux

required to do so by an order described in clause 36 (g), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a twelve-month period in an amount greater than 1 per cent of the employer's payroll during the preceding twelve-month period.

Exception

(7) Notwithstanding subsection (6), pay equity plans in the public sector shall provide for adjustments in compensation such that the plan will be fully implemented not later than the seventh anniversary of the effective date.

Definition
"feuille de
paie"

(8) In this section, "payroll" means the total of all wages and salaries payable to the employees in Ontario of the employer.

Pay equity
plan binding

(9) A pay equity plan that is approved under this Part binds the employer and the employees to whom the plan applies and their bargaining agent, if any.

Plan to
prevail

(10) A pay equity plan that is approved under this Part prevails over all relevant collective agreements and the adjustments to rates of compensation required by the plan shall be deemed to be incorporated into and form part of the relevant collective agreements.

Deemed
compliance

(11) Every employer who prepares and implements a pay equity plan under this Part shall be deemed not to be in contravention of subsection 7 (1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date.

Establish-
ments with
bargaining
units

14.—(1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

Bargaining
unit plans

(2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

- (a) the gender-neutral comparison system used for the purposes of section 12; and

à moins qu'il y soit tenu aux termes d'une ordonnance visée à l'alinéa 36 g), la présente loi n'a pas pour effet d'obliger un employeur à majorer la rétribution payable aux termes des programmes d'équité salariale de l'employeur au cours d'une période de douze mois d'une somme qui représente plus de 1 pour cent de la feuille de paie de l'employeur relative à la période précédente de douze mois.

(7) Malgré le paragraphe (6), les programmes d'équité salariale du secteur public prévoient les rajustements de la rétribution de manière à ce que ces programmes soient pleinement mis en oeuvre au plus tard le septième anniversaire de la date d'entrée en vigueur. Exception

(8) Dans le présent article, «feuille de paie» s'entend de la totalité des salaires et traitements payables aux employés de l'employeur en Ontario. Définition
«payroll»

(9) Le programme d'équité salariale approuvé aux termes de la présente partie lie l'employeur et les employés auxquels il s'applique, ainsi que leur agent négociateur, le cas échéant. Le programme d'équité salariale lie les parties

(10) Le programme d'équité salariale approuvé aux termes de la présente partie l'emporte sur toute convention collective pertinente. Les rajustements des taux de rétribution qu'exige le programme sont réputés incorporés aux conventions collectives pertinentes et en faire partie intégrante. Le programme l'emporte

(11) L'employeur qui prépare et met en oeuvre un programme d'équité salariale aux termes de la présente partie est réputé ne pas contrevenir au paragraphe 7 (1) en ce qui concerne les employés visés par le plan ou les plans qui s'appliquent aux employés, mais seulement en ce qui a trait aux pratiques de rétribution qui existaient immédiatement avant la date d'entrée en vigueur. Conformité
réputée

14 (1) Il doit être élaboré, dans tout établissement où des employés sont représentés par un agent négociateur, un programme d'équité salariale relié à chaque unité de négociation, ainsi qu'un programme d'équité salariale relié à la partie de l'établissement dont les membres n'appartiennent pas à une unité de négociation. Établissements dotés d'unités de négociation

(2) L'employeur et l'agent négociateur d'une unité de négociation négocient de bonne foi et s'efforcent de convenir, avant à la date d'affichage obligatoire : Programmes reliés à une unité de négociation

- a) du système non sexiste de comparaison utilisé pour l'application de l'article 12;

(b) a pay equity plan for the bargaining unit.

Idem

(3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

(a) that the establishment of the employer includes two or more geographic divisions; and

(b) that a job class is a female job class or a male job class.

Posting
of plan

(4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the work place.

Deemed
approval and
first
adjustments

(5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Failure
to agree

(6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

Idem

(7) Subsection (6) does not prevent the bargaining agent from notifying the Commission of a failure to agree on a pay equity plan by the mandatory posting date.

Non-
bargaining
unit plan

(8) An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(9) Subsections 15 (2) to (8) apply to a pay equity plan described in subsection (8).

Establish-
ments
without
bargaining
units

15.—(1) In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the work place.

- b) d'un programme d'équité salariale relié à l'unité de négociation.

(3) Dans le cadre des négociations exigées par le paragraphe (2), l'employeur et l'agent négociateur peuvent, pour les fins du programme d'équité salariale, convenir de ce qui suit : Idem

- a) que l'établissement de l'employeur comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) L'employeur et l'agent négociateur qui ont convenu d'un programme d'équité salariale y apposent leur signature. À la date d'affichage obligatoire ou antérieurement à celle-ci, l'employeur affiche une copie du programme sur les lieux de travail. Affichage du programme

(5) Le programme d'équité salariale qui porte la signature de l'employeur et celle de l'agent négociateur est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale. Approbation réputée et premiers rajustements

(6) Si l'employeur et l'agent négociateur n'ont pas convenu d'un programme d'équité salariale à la date d'affichage obligatoire, l'employeur en avise sans délai la Commission. Absence d'entente

(7) Le paragraphe (6) n'a pas pour effet d'empêcher l'agent négociateur d'aviser la Commission du défaut de convenir d'un programme d'équité salariale à la date d'affichage obligatoire ou antérieurement à celle-ci. Idem

(8) L'employeur élabore un programme d'équité salariale destiné aux employés de son établissement qui n'appartiennent à aucune des unités de négociation de l'établissement. À la date d'affichage obligatoire ou antérieurement à celle-ci, il affiche une copie du programme sur les lieux de travail. Programme non relié à une unité de négociation

(9) Les paragraphes 15 (2) à (8) s'appliquent au programme d'équité salariale décrit au paragraphe (8). Idem

15 (1) L'employeur dont l'établissement ne compte aucun employé représenté par un agent négociateur élabore un programme d'équité salariale à l'égard de son établissement. L'employeur, à la date d'affichage obligatoire ou antérieurement à celle-ci, affiche une copie du programme sur les lieux de travail. Établissements dépourvus d'unités de négociation

- Idem (2) For the purposes of a pay equity plan required by this section or subsection 14 (8), the employer may decide,
- (a) that the establishment of the employer includes two or more geographic divisions; and
 - (b) that a job class is a female job class or a male job class.
- Idem (3) An agreement under section 14 between an employer and a bargaining agent shall not affect any pay equity plan required by this section or subsection 14 (8).
- Employee review (4) The employees to whom a pay equity plan required by this section or subsection 14 (8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.
- Changes (5) If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.
- Posting of notice (6) Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the work place a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.
- Objections (7) Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employer under subsection (4).
- Deemed approval and first adjustments (8) If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(2) Pour l'application du programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8), l'employeur peut décider :

- a) que son établissement comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) L'entente intervenue en vertu de l'article 14 entre l'employeur et l'agent négociateur n'a pas d'incidence sur le programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8).

(4) Les employés visés par un programme d'équité salariale exigé par le présent article ou par le paragraphe 14 (8) peuvent examiner le programme et présenter leurs observations à l'employeur jusqu'au quatre-vingt-dixième jour suivant la date d'affichage obligatoire.

(5) L'employeur qui, à la suite des observations reçues au cours de la période d'examen visée au paragraphe (4), est d'avis que des modifications au programme d'équité salariale s'imposent, peut y apporter des modifications.

(6) Dans les sept jours qui suivent la fin de la période d'examen visée au paragraphe (4), l'employeur affiche sur les lieux de travail un avis qui indique si le programme d'équité salariale a été modifié ou non aux termes du présent article. Si le programme a été modifié, l'employeur affiche également une copie du programme modifié sur laquelle les modifications sont clairement indiquées.

(7) Dans les trente jours de l'affichage concernant un programme d'équité salariale aux termes du paragraphe (6), l'employé ou le groupe d'employés visés par le programme peuvent déposer un avis d'opposition auprès de la Commission, qu'ils aient présenté ou non leurs observations à l'employeur aux termes du paragraphe (4).

(8) S'il n'est déposée aucune opposition à un programme d'équité salariale auprès de la Commission en vertu du paragraphe (7), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Investigation
by review
officer and
settlement

16.—(1) If the Commission,

- (a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 14; or
- (b) receives a notice of objection under subsection 15 (7),

a review officer shall investigate the matter and endeavour to effect a settlement.

Orders by
review officer

(2) If the review officer is unable to effect a settlement as provided for in subsection (1), he or she shall, by order, decide all outstanding matters.

Posting of
plan

(3) Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the work place a copy of the pay equity plan that reflects the settlement or order.

Objections

(4) Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Commission within thirty days of the posting as follows:

1. If the plan relates to a bargaining unit, objections may be filed only if the review officer has made an order under subsection (2) and only the employer or the bargaining agent for the bargaining unit may file objections.
2. If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1) with the agreement of the objector who filed the objection under subsection 15 (7), only an employee or group of employees to whom the plan applies, other than the objector, may file an objection.
3. If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

16 (1) Lorsque la Commission :Enquête par
l'agent de
révision et
règlement

- a) ou bien est avisée par l'employeur ou l'agent négociateur qu'aucune entente n'est intervenue au sujet du programme d'équité salariale aux termes de l'article 14;
- b) ou bien reçoit l'avis d'opposition visé au paragraphe 15 (7),

un agent de révision mène une enquête à ce sujet et tente d'amener les parties à accepter un règlement.

(2) Si l'agent de révision ne peut parvenir à amener les parties à accepter le règlement visé au paragraphe (1), il règle toutes les questions en souffrance au moyen d'un ordre.

Ordre de
l'agent de
révision

(3) Si l'agent de révision amène les parties à accepter un règlement aux termes du paragraphe (1) ou donne un ordre aux termes du paragraphe (2), l'employeur affiche sans délai sur les lieux de travail une copie du programme d'équité salariale qui reflète le règlement ou l'ordre.

Affichage du
programme

(4) Des oppositions au programme d'équité salariale affiché en vertu du paragraphe (3), peuvent être déposées auprès de la Commission dans les trente jours de l'affichage, selon les modalités suivantes :

Oppositions

1. Si le programme est relié à une unité de négociation, des oppositions peuvent être déposées seulement si l'agent de révision a donné un ordre aux termes du paragraphe (2). Dans ce cas, seuls l'employeur ou l'agent négociateur de l'unité de négociation peuvent déposer une opposition.
2. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a amené, aux termes du paragraphe (1), les parties à accepter un règlement avec le consentement de l'opposant qui a déposé l'opposition aux termes du paragraphe 15 (7), seuls un employé ou le groupe d'employés visés par le programme, autre que l'opposant, peuvent déposer une opposition.
3. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a donné un ordre aux termes du paragraphe (2), l'employeur, un employé ou un groupe d'employés visés par le programme peuvent déposer une opposition.

Deemed approval and first adjustments

(5) If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Commission in accordance with subsection (4), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Idem

(6) Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date.

Hearing

17.—(1) If the Commission receives a notice of objection under subsection 16 (4), the Hearings Tribunal shall hold a hearing and, in its decision, shall settle the pay equity plan to which the objection relates.

Posting of plan

(2) Forthwith after receiving the decision of the Hearings Tribunal, the employer shall post a copy of the decision in the work place and, on the day provided for in the plan, shall make the first adjustments in compensation required to achieve pay equity.

Idem

(3) Where adjustments in compensation are made after the day provided for in a pay equity plan, the employer shall make the adjustments retroactive to that date.

PART III

Implementation: Small Private Sector Employers

Application

18. This Part applies only to employers in the private sector who, on the effective date, employ more than nine and fewer than 100 employees.

Pay equity plans

19. An employer to whom this Part applies may establish pay equity plans for any of the employer's establishments.

Posting of notice

20.—(1) An employer who decides to establish a pay equity plan or plans for an establishment, as provided for in section 19, shall give notice of the decision to the bargaining agents, if any, for employees in the establishment and shall post a notice of the decision in the work place.

Application of Part II

(2) Upon the posting of the notice referred to in subsection (1), Part II applies to the establishment to which the notice relates and this Part ceases to apply to the employer with respect to that establishment.

(5) Si un agent de révision amène les parties à accepter, aux termes du paragraphe (1), un règlement relatif à un programme d'équité salariale relié à une unité de négociation, ou que, dans tout autre cas, aucune opposition n'a été déposée auprès de la Commission au sujet d'un programme d'équité salariale aux termes du paragraphe (4), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

(6) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

17 (1) Si la Commission reçoit un avis d'opposition en vertu du paragraphe 16 (4), le Tribunal tient une audience et règle, dans sa décision, le programme d'équité salariale qui fait l'objet de l'opposition.

Audience

(2) Lorsqu'il reçoit la décision du Tribunal, l'employeur en affiche sans délai une copie sur les lieux de travail. À la date prévue au programme, il effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Affichage du
programme

(3) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

PARTIE III

Mise en oeuvre : petits employeurs du secteur privé

18 La présente partie ne s'applique qu'aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont à leur service plus de neuf, mais moins de 100 employés.

Champ
d'application

19 L'employeur auquel s'applique la présente partie peut établir des programmes d'équité salariale à l'égard de chacun de ses établissements.

Programme
d'équité
salariale

20 (1) L'employeur qui décide d'établir, aux termes de l'article 19, un ou plusieurs programmes d'équité salariale à l'égard de son établissement, avise de sa décision les agents négociateurs des employés de son établissement, le cas échéant, et affiche un avis de cette décision sur les lieux de travail.

Affichage de
l'avis

(2) Dès que l'employeur affiche l'avis prévu au paragraphe (1), la partie II s'applique à l'établissement visé par l'avis et la présente partie cesse alors de s'appliquer à l'employeur à l'égard de cet établissement.

Cas d'applica-
tion de la
partie II

Transition

21.—(1) Notwithstanding subsection 7 (1) or (2), an employer to whom this Part applies may maintain compensation practices that were in existence in the employer's establishment immediately before the effective date,

- (a) until the fifth anniversary of the effective date, if the employer employs at least fifty but fewer than 100 employees on the effective date; and
- (b) until the sixth anniversary of the effective date, if the employer employs at least ten but fewer than fifty employees on the effective date,

and, until the relevant anniversary date, a compensation change that is the same in percentage terms for female job classes and male job classes in the establishment shall be deemed not to be a contravention of those subsections even though the change is different in dollar terms for a female job class than for a male job class.

Repeal

(2) This Part is repealed on the sixth anniversary of the effective date.

PART IV

Enforcement

Complaints

22.—(1) Any employer, employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining that there has been a contravention of this Act, the regulations or an order of the Commission.

Idem

(2) Any employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Commission complaining with respect to a pay equity plan that applies to the employee or group of employees that,

- (a) the plan is not being implemented according to its terms; or
- (b) because of changed circumstances in the establishment, the plan is not appropriate for the female job

21 (1) Malgré les paragraphes 7 (1) ou (2), l'employeur auquel s'applique la présente partie peut maintenir les pratiques de rétribution qui avaient cours dans son établissement immédiatement avant la date d'entrée en vigueur :

Disposition
transitoire

- a) jusqu'au cinquième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins cinquante, mais moins de 100 employés à son service à la date d'entrée en vigueur;
- b) jusqu'au sixième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins dix, mais moins de cinquante employés à son service à la date d'entrée en vigueur.

Jusqu'à l'anniversaire pertinent, la modification de la rétribution qui est la même, en termes de pourcentage, à l'égard des catégories d'emplois à prédominance féminine qu'à l'égard des catégories d'emplois à prédominance masculine dans l'établissement, est réputée ne pas contrevenir à ces paragraphes, même si, en termes absolus, la modification qui est faite à l'égard des catégories d'emplois à prédominance féminine diffère de celle qui est faite à l'égard des catégories d'emplois à prédominance masculine.

(2) La présente partie est abrogée le jour du sixième anniversaire de la date d'entrée en vigueur.

Abrogation

PARTIE IV

Exécution de la loi

22 (1) Un employeur, un employé, un groupe d'employés ou, le cas échéant, un agent négociateur qui représente l'employé ou le groupe d'employés, peuvent déposer auprès de la Commission une plainte signalant qu'il y a eu contravention à la présente loi, aux règlements ou à une ordonnance de la Commission.

Plaintes

(2) Un employé, un groupe d'employés ou, le cas échéant, l'agent négociateur qui représente l'employé ou le groupe d'employés, peuvent déposer auprès de la Commission, à l'égard du programme d'équité salariale qui vise cet employé ou ce groupe d'employés, une plainte précisant, selon le cas :

Idem

- a) que la mise en oeuvre du programme ne s'effectue pas conformément à ses modalités;
- b) qu'en raison d'un changement de la situation au sein de l'établissement, le programme ne convient pas à la catégorie d'emplois à prédominance fémi-

class to which the employee or group of employees belongs.

Combining of complaints

(3) The Hearings Tribunal may combine two or more complaints and deal with them in one proceeding if the complaints,

- (a) are made against the same person and bring into question the same or a similar issue; or
- (b) have questions of law or fact in common.

Investigation of complaints

23.—(1) Subject to subsection (2), when the Commission receives a complaint, a review officer shall investigate the complaint and may endeavour to effect a settlement.

Idem

(2) The review officer shall notify the parties and the Hearings Tribunal as soon as he or she decides that a settlement cannot be effected and that he or she will not be making an order under subsection 24 (3).

Decision to not deal with complaint

(3) A review officer may decide that a complaint should not be considered if the review officer is of the opinion that,

- (a) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or
- (b) the complaint is not within the jurisdiction of the Commission.

Hearing before Tribunal

(4) The review officer shall notify the complainant of his or her decision under subsection (3) and the complainant may request a hearing before the Hearings Tribunal with respect to the decision.

Orders by review officers

24.—(1) Where a review officer is of the opinion that a pay equity plan is not being prepared as required by Part II, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

Idem

(2) Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

Idem

(3) Where a review officer is of the opinion that there has been a contravention of subsection 7 (1) or (2), the review officer may order the employer and the bargaining agent, if

nine à laquelle appartiennent l'employé ou le groupe d'employés.

(3) Le Tribunal peut réunir deux ou plusieurs plaintes et en traiter au cours d'une même instance, si ces plaintes, selon le cas :

Réunion de plaintes

- a) sont formulées contre la même personne et se rapportent au même point en litige ou à un point semblable;
- b) soulèvent les mêmes questions de droit ou de fait.

23 (1) Sous réserve du paragraphe (2), un agent de révision mène une enquête concernant la plainte reçue par la Commission et peut tenter d'amener les parties à accepter un règlement.

Enquêtes au sujet des plaintes

(2) Aussitôt que l'agent de révision décide qu'il ne peut pas amener les parties à accepter un règlement et qu'il ne donnera pas d'ordre en vertu du paragraphe 24 (3), il en avise les parties et le Tribunal.

Idem

(3) L'agent de révision peut décider de ne pas examiner la plainte s'il est d'avis que, selon le cas :

Décision de ne pas traiter de la plainte

- a) la plainte est futile, frivole, vexatoire ou faite de mauvaise foi;
- b) la plainte n'est pas du ressort de la Commission.

(4) L'agent de révision avise le plaignant de la décision qu'il a prise aux termes du paragraphe (3), et le plaignant peut demander au Tribunal de tenir une audience à l'égard de la décision.

Audience devant le Tribunal

24 (1) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas en cours d'élaboration tel que l'exige la partie II peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre en vue d'élaborer le programme.

Ordres des agents de révision

(2) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas mis en oeuvre conformément à ses modalités peut ordonner à l'employeur de prendre les mesures énoncées dans son ordre aux fins de mettre en oeuvre le programme.

Idem

(3) L'agent de révision qui est d'avis qu'il y a eu contravention aux paragraphes 7 (1) ou (2) peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesu-

Idem

any, to take such steps as are set out in the order to comply with either or both of those subsections.

Idem

(4) An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 10.

Reference to
Tribunal

(5) Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Hearings Tribunal.

Hearing
before
Tribunal

(6) An employer or bargaining agent named in an order under this section may request a hearing before the Hearings Tribunal with respect to the order, and, where the order was made following a complaint but the complaint has not been settled, the complainant may also request a hearing.

Hearings

25.—(1) The Hearings Tribunal shall hold a hearing,

- (a) if a review officer is unable to effect a settlement of a complaint and has not made an order under subsection 24 (3);
- (b) if a request for a hearing, as described in subsection 23 (4) or 24 (6), is received by the Hearings Tribunal; or
- (c) if a review officer refers a matter to the Hearings Tribunal under subsection 24 (5).

Orders

(2) The Hearings Tribunal shall decide the issue that is before it for a hearing and, without restricting the generality of the foregoing, the Hearings Tribunal,

- (a) where it finds that an employer or a bargaining agent has failed to comply with Part II, may order that a review officer prepare a pay equity plan for the employer's establishment and that the employer and the bargaining agent, if any, or either of them, pay all of the costs of preparing the plan;
- (b) where it finds that an employer has contravened subsection 9 (2) by dismissing, suspending or otherwise penalizing an employee, may order the employer to reinstate the employee, restore the employee's compensation to the same level as before the contravention and pay the employee the

res énoncées dans son ordre aux fins de se conformer à l'un ou l'autre de ces paragraphes ou aux deux.

(4) Un ordre donné aux termes du paragraphe (1) peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 10. Idem

(5) Si l'employeur ou l'agent négociateur ne se conforment pas à l'ordre donné aux termes du présent article, un agent de révision peut renvoyer la question au Tribunal. Renvoi
devant le
Tribunal

(6) Un employeur ou un agent négociateur nommés dans un ordre donné aux termes du présent article peuvent demander au Tribunal de tenir une audience à cet égard. Si l'ordre a été donné à la suite d'une plainte et que la plainte n'a pas fait l'objet d'un règlement, le plaignant peut également demander une audience. Audience
devant le
Tribunal

25 (1) Le Tribunal tient une audience dans les cas suivants : Audiences

- a) si l'agent de révision ne peut amener les parties à accepter un règlement relativement à la plainte et qu'il n'a pas donné d'ordre en vertu du paragraphe 24 (3);
- b) si le Tribunal reçoit une demande d'audience prévue aux paragraphes 23 (4) ou 24 (6);
- c) si l'agent de révision renvoie une question devant le Tribunal aux termes du paragraphe 24 (5).

(2) Le Tribunal règle la question dont il est saisi, et peut notamment : Ordonnances

- a) enjoindre à l'agent de révision d'élaborer un programme d'équité salariale destiné à l'établissement de l'employeur, lorsqu'il constate que ce dernier ou l'agent négociateur ne se sont pas conformés à la partie II. Il peut aussi enjoindre à l'employeur et à l'agent négociateur, le cas échéant, ou à l'un d'eux, d'acquitter la totalité des frais d'élaboration du programme;
- b) lorsqu'elle constate que l'employeur a enfreint le paragraphe 9 (2) en pénalisant un employé, notamment en le renvoyant ou en le suspendant, peut ordonner à l'employeur de réintégrer l'employé dans son emploi, de placer sa rétribution au même niveau qu'avant la contravention et de lui verser le

amount of all compensation lost because of the contravention;

- (c) where it finds that an employer has contravened subsection 9 (1) by reducing compensation, may order the employer to adjust the compensation of all employees affected to the rate to which they would have been entitled but for the reduction in compensation and to pay compensation equal to the amount lost because of the reduction;
- (d) may confirm, vary or revoke orders of review officers;
- (e) may, for the female job class that is the subject of the complaint or reference, order adjustments in compensation in order to achieve pay equity, where the Hearings Tribunal finds that there has been a contravention of subsection 7 (1);
- (f) may order that the pay equity plan be revised in such manner as the Hearings Tribunal considers appropriate, where it finds that the plan is not appropriate for the female job class that is the subject of the complaint or reference because there has been a change of circumstances in the establishment; and
- (g) may order a party to a proceeding to take such action or refrain from such action as in the opinion of the Hearings Tribunal is required in the circumstances.

Idem

(3) An order under clause (2) (a) may provide that a review officer may retain the services of such experts as the review officer considers necessary to prepare a pay equity plan.

Application
of Part II

(4) Part II, except section 16, applies with necessary modifications to a pay equity plan prepared under clause (2) (a) but,

- (a) the order of the Hearings Tribunal may provide for a mandatory posting date that is later than the one provided in section 10;
- (b) the order of the Hearings Tribunal shall not provide for a compensation adjustment date that is different than the relevant date set out in clause 13 (2) (e);

montant entier de la rétribution perdue en raison de la contravention;

- c) lorsqu'il constate que l'employeur a enfreint le paragraphe 9 (1) en diminuant la rétribution, ordonner à l'employeur de rajuster la rétribution de tous les employés concernés au taux auquel ils auraient eu droit n'eût été la diminution, et de verser une rétribution égale au montant perdu en raison de la diminution;
- d) confirmer, modifier ou révoquer les ordres des agents de révision;
- e) ordonner, à l'égard de la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi, que des rajustements de la rétribution soient effectués pour atteindre l'équité salariale, lorsqu'il constate qu'il y a eu contravention au paragraphe 7 (1);
- f) ordonner que le programme d'équité salariale soit révisé de la manière que le Tribunal estime appropriée lorsqu'il constate que le programme ne convient pas à la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi en raison d'un changement de la situation au sein de l'établissement;
- g) enjoindre à une partie à l'instance soit de prendre certaines mesures, soit de s'en abstenir, selon ce que le Tribunal juge nécessaire dans les circonstances.

(3) L'ordonnance prise en vertu de l'alinéa (2) a) peut permettre à l'agent de révision de retenir les services des experts que celui-ci estime nécessaires en vue d'élaborer un programme d'équité salariale. Idem

(4) À l'exception de l'article 16, la partie II s'applique avec les adaptations nécessaires au programme d'équité salariale élaboré en vertu de l'alinéa (2) a). Toutefois : Cas d'application de la partie II

- a) l'ordonnance prise par le Tribunal peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 10;
- b) l'ordonnance du Tribunal ne prévoit pas une date de rajustement de la rétribution différente de la date pertinente énoncée à l'alinéa 13 (2) e);

- (c) the review officer shall perform the duties of the employer and the bargaining agent, if any;
- (d) when the review officer posts the plan in the work place as subsection 14 (4) or 15 (6) provides, the employer, the bargaining agent (if the plan relates to a bargaining unit), or any employee or group of employees to whom the plan applies (if the plan does not relate to a bargaining unit) may file an objection with the Hearings Tribunal; and
- (e) an objection under clause (d) shall be dealt with by the Hearings Tribunal under section 17.

Retroactive
compensation
adjustments

(5) An order under clause (2) (e) may be retroactive to the day of the contravention of subsection 7 (1).

Idem

(6) An order under clause (2) (f) may provide that adjustments in compensation resulting from the revision of the pay equity plan be made retroactive to the day of the change in circumstances that gave rise to the order.

Offences and
penalties

26.—(1) Every person who contravenes or fails to comply with subsection 9 (2) or subsection 35 (5) or an order of the Hearings Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, in the case of an individual, and not more than \$25,000, in any other case.

Parties

(2) If a corporation or bargaining agent contravenes or fails to comply with subsection 9 (2) or subsection 35 (5) or an order of the Hearings Tribunal, every officer, official or agent thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or bargaining agent has been prosecuted or convicted.

Prosecution
against
bargaining
agent

(3) A prosecution for an offence under this Act may be instituted against a bargaining agent in its own name.

Consent

(4) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Hearings Tribunal.

- c) l'agent de révision exerce les fonctions de l'employeur et de l'agent négociateur, le cas échéant;
- d) lorsque l'agent de révision affiche le programme sur les lieux de travail comme le prévoient les paragraphes 14 (4) ou 15 (6), l'employeur, l'agent négociateur (si le programme est relié à une unité de négociation) ou un employé ou un groupe d'employés visés par le programme (si le programme n'est pas relié à une unité de négociation) peuvent déposer une opposition auprès du Tribunal;
- e) le Tribunal traite de l'opposition visée à l'alinéa d) aux termes de l'article 17.

(5) L'ordonnance prise aux termes de l'alinéa (2) e) peut avoir un effet rétroactif au jour de la contravention au paragraphe 7 (1). Rajustements rétroactifs de la rétribution

(6) L'ordonnance prise aux termes de l'alinéa (2) f) peut prévoir que les rajustements de la rétribution résultant de la révision du programme d'équité salariale ont un effet rétroactif au jour où s'est produit le changement de situation qui a donné lieu à l'ordonnance. Idem

26 (1) Quiconque contrevient aux paragraphes 9 (2) ou 35 (5) ou à une ordonnance du Tribunal ou ne s'y conforme pas, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$ dans le cas d'une personne physique, et d'au plus 25 000 \$ dans les autres cas. Infractions et peines

(2) Si une personne morale ou un agent négociateur contreviennent aux paragraphes 9 (2) ou 35 (5) ou à une ordonnance du Tribunal ou ne s'y conforment pas, le dirigeant, l'employé ou le mandataire qui autorise ou permet la contravention ou y donne son consentement est partie à l'infraction, en est coupable et, sur déclaration de culpabilité, est passible de la peine prévue pour cette infraction, que la personne morale ou l'agent négociateur aient été ou non poursuivis ou déclarés coupables de l'infraction. Parties

(3) Une poursuite relative à une infraction à la présente loi peut être intentée contre l'agent négociateur en tant que tel. Poursuite contre l'agent négociateur

(4) Il ne peut être intenté aucune poursuite relative à une infraction à la présente loi sans le consentement écrit du Tribunal. Consentement

PART V

Administration

- Commission established **27.**—(1) There is hereby established a commission to be known as the Pay Equity Commission of Ontario.
- Idem (2) The Commission shall consist of the Pay Equity Hearings Tribunal and the Pay Equity Office.
- Staff (3) Such employees as are necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* to serve in the Pay Equity Office.
- R.S.O. 1980, c. 418
- Services of ministries, etc. (4) The Commission shall, if appropriate, use the services and facilities of a ministry, board, commission or agency of the Government of Ontario.
- Hearings Tribunal **28.**—(1) The Hearings Tribunal shall be composed of a presiding officer, one or more deputy presiding officers and as many other members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.
- Alternate presiding officer (2) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.
- Remuneration and expenses (3) The members of the Hearings Tribunal who are not Crown employees shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.
- Resignation of member (4) Where a member of the Hearings Tribunal resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Hearings Tribunal.
- Powers and duties of Tribunal **29.**—(1) The Hearings Tribunal may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act or the regulations.

PARTIE V

Application de la loi

- 27** (1) Est créée une commission nommée Commission de l'équité salariale de l'Ontario. Création de la Commission
- (2) La Commission se compose du Tribunal de l'équité salariale et du Bureau de l'équité salariale. Idem
- (3) Les employés nécessaires à la conduite efficace des activités de la Commission peuvent être nommés aux termes de la *Loi sur la fonction publique* afin de travailler au Bureau de l'équité salariale. Personnel
L.R.O. 1980, chap. 418
- (4) La Commission se prévaut, si cela est approprié, des services et installations des ministères, commissions ou organismes du gouvernement de l'Ontario. Services des ministères, etc.
- 28** (1) Le Tribunal se compose d'un président, d'un ou de plusieurs vice-présidents, et du nombre d'autres membres répartis en un nombre égal de représentants des employeurs et des employés que le lieutenant-gouverneur en conseil juge approprié. Toutes ces personnes sont nommées par le lieutenant-gouverneur en conseil. Tribunal
- (2) Le lieutenant-gouverneur en conseil désigne l'un des vice-présidents comme président suppléant. Cette personne possède tous les pouvoirs du président si ce dernier est absent ou empêché d'agir. Président suppléant
- (3) Les membres du Tribunal qui ne sont pas des employés de la Couronne reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et, sous réserve de l'approbation du Conseil de gestion du gouvernement, les frais normaux engagés lors de l'exercice de leurs fonctions aux termes de la présente loi. Rémunération et frais
- (4) Le membre du Tribunal qui démissionne peut toutefois exercer les attributions qu'il aurait continué d'avoir s'il n'avait pas démissionné, en ce qui concerne toute question faisant l'objet d'une instance à laquelle il a participé en tant que membre. Démission d'un membre
- 29** (1) Le Tribunal peut exercer les pouvoirs et doit accomplir les obligations qui lui sont conférés par la présente loi ou par les règlements. Attributions du Tribunal

Idem

(2) Without limiting the generality of subsection (1), the Hearings Tribunal,

- (a) may decide in an order made under subsection 17 (1) or clause 25 (2) (a) that any job class is a female job class or a male job class;
- (b) may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it; and
- (c) may require that any person seeking a determination of any matter by the Hearings Tribunal shall give written notice, in such form and manner as the Hearings Tribunal specifies, to the persons that the Hearings Tribunal specifies.

Panels

(3) The presiding officer may establish panels of the Hearings Tribunal and it may sit in two or more panels simultaneously so long as a quorum of the Hearings Tribunal is present on each panel.

Quorum

(4) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Hearings Tribunal.

Decisions

(5) The decision of the majority of the members of the Hearings Tribunal present and constituting a quorum is the decision of the Hearings Tribunal, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.

Exclusive jurisdiction

30.—(1) The Hearings Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Hearings Tribunal thereon is final and conclusive for all purposes.

Reconsideration of decisions, etc.

(2) The Hearings Tribunal may at any time, if it considers it advisable to do so, reconsider a decision or order made by it and vary or revoke the decision or order.

Testimony in civil proceedings

31. Except with the consent of the Hearings Tribunal, no member of the Hearings Tribunal, employee of the Commission or person whose services have been contracted for by the Commission shall be required to testify in any civil proceeding, in any proceeding before the Hearings Tribunal or in any proceeding before any other tribunal respecting information

(2) Le Tribunal possède notamment les attributions suivantes : Idem

- a) il peut décider, au moyen d'une ordonnance prise aux termes du paragraphe 17 (1) ou de l'alinéa 25 (2) a), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- b) il peut établir des règles concernant la conduite et la gestion de ses affaires, ainsi que des règles de pratique et de procédure à suivre relativement aux questions dont il est saisi;
- c) il peut exiger que la personne qui lui demande de prendre une décision relative à une question quelconque en avise par écrit, de la manière que précise le Tribunal, les personnes qu'il précise.

(3) Le président peut former des comités du Tribunal, qui peut ainsi siéger simultanément en plusieurs comités, pourvu que le quorum du Tribunal soit atteint dans chacun d'eux. Comités

(4) Le président ou un vice-président, un membre représentant les employeurs et un membre représentant les employés constituent le quorum et peuvent exercer tous les pouvoirs du Tribunal. Quorum

(5) La décision de la majorité des membres du Tribunal présents qui constituent le quorum est la décision du Tribunal. En cas de partage, le président ou le vice-président a voix prépondérante. Décisions

30 (1) Le Tribunal a compétence exclusive pour exercer les pouvoirs que lui confère la présente loi et trancher les questions de fait ou de droit soulevées à l'occasion d'une question dont il est saisi. Ses décisions et les mesures qu'il prend sont définitives et ont à toutes fins force de chose jugée. Compétence exclusive

(2) Le Tribunal peut, chaque fois qu'il le juge à propos, examiner de nouveau, modifier ou annuler ses propres décisions et ordonnances. Nouvel examen des décisions et ordonnances

31 Sauf si le Tribunal y consent, ses membres, les employés de la Commission et les personnes dont elle a retenu les services par contrat ne peuvent pas être contraints à témoigner lors d'une instance civile ou devant le Tribunal ou tout autre tribunal administratif, en ce qui concerne les rensei-

Témoignages lors d'instances civiles

obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Parties to proceedings

32.—(1) Where a hearing is held before the Hearings Tribunal or where a review officer investigates for the purposes of effecting a settlement of an objection or complaint, the parties to the proceeding are,

- (a) the employer;
- (b) the objector or complainant; and
- (c) the bargaining agent (if the pay equity plan relates to a bargaining unit) or the employees to whom the plan relates (if the plan does not relate to a bargaining unit).

Notice

(2) Where the Hearings Tribunal or a review officer requires that a notice be given by the employer to employees, the employer shall post the notice in the work place and such notice shall be deemed to have been sufficiently given to all employees in the work place when it is so posted.

Representation

(3) An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Hearings Tribunal or before a review officer.

Idem

(4) Where an employee or group of employees advises the Hearings Tribunal in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Hearings Tribunal or review officer and not the employee or group of employees.

Idem

(5) Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part IV.

Pay Equity Office

33.—(1) The Pay Equity Office is responsible for the enforcement of this Act and orders of the Hearings Tribunal.

Idem

(2) Without limiting the generality of subsection (1), the Pay Equity Office,

- (a) may conduct research and produce papers concerning any aspect of pay equity and related subjects and make recommendations to the Minister in connection therewith;

gnements obtenus dans l'accomplissement de leurs devoirs ou dans le cadre de leurs fonctions aux termes de la présente loi.

32 (1) Lorsque le Tribunal tient une audience ou qu'un agent de révision mène une enquête en vue d'amener les parties à accepter un règlement relativement à une opposition ou à une plainte, les parties à l'instance sont les suivantes :

- a) l'employeur;
- b) l'opposant ou le plaignant;
- c) l'agent négociateur (si le programme d'équité salariale est relié à une unité de négociation) ou les employés visés par le programme (si celui-ci n'est pas relié à une unité de négociation).

(2) Lorsque le Tribunal ou l'agent de révision exige que l'employeur donne un avis à ses employés, celui-ci affiche l'avis sur les lieux de travail, et l'avis ainsi affiché est réputé suffisant à l'égard de tous les employés du lieu de travail.

(3) Un employé ou un groupe d'employés peuvent désigner une personne ou une organisation comme leur mandataire devant le Tribunal ou l'agent de révision.

(4) Lorsqu'un employé ou un groupe d'employés avisent par écrit le Tribunal de leur désir de garder l'anonymat, leur mandataire devient à leur place la partie à l'instance devant le Tribunal ou l'agent de révision.

(5) Lorsque le paragraphe (4) s'applique, le mandataire peut, en son nom, prendre toutes les mesures qu'un employé peut prendre aux termes de la présente loi. Il peut notamment déposer une opposition en vertu de la partie II et déposer une plainte en vertu de la partie IV.

33 (1) Le Bureau de l'équité salariale est chargé de l'exécution de la présente loi et des ordonnances du Tribunal.

(2) Le Bureau de l'équité salariale possède notamment les attributions suivantes :

- a) il peut effectuer des recherches et préparer des rapports concernant n'importe quel aspect de l'équité salariale et des questions connexes et peut également formuler des recommandations au ministre en ce qui concerne l'objet de ces recherches ou rapports;

- (b) may conduct public education programs and provide information concerning any aspect of pay equity and related subjects;
- (c) shall provide support services to the Hearings Tribunal;
- (d) shall conduct such studies as the Minister requires and make reports and recommendations in relation thereto; and
- (e) shall conduct a study with respect to systemic gender discrimination in compensation for work performed, in sectors of the economy where employment has traditionally been predominantly female, by female job classes in establishments that have no appropriate male job classes for the purpose of comparison under section 5 and, within one year of the effective date, shall make reports and recommendations to the Minister in relation to redressing such discrimination.

Chief
adminis-
trative
officer

(3) The Lieutenant Governor in Council shall appoint a person to be the head of the Pay Equity Office and that person shall be the chief administrative officer of the Commission.

Minister
may require
studies, etc.

(4) The Minister may require the Pay Equity Office to conduct such studies related to pay equity as are set out in a request to the head of the Office and to make reports and recommendations in relation thereto.

Annual
report

(5) Not later than the 31st day of March in each year, the head of the Pay Equity Office shall make an annual report to the Minister on the activities and affairs of the Commission and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Review
officers,
designation

34.—(1) The head of the Pay Equity Office shall designate one or more employees of the Office to be review officers.

Review
officers,
duties

(2) Review officers shall monitor the preparation and implementation of pay equity plans, shall investigate objections and complaints filed with the Commission, may attempt to effect settlements and shall take such other action as is set out in this Act or in an order of the Hearings Tribunal.

- b) il peut instituer à l'intention du public des programmes d'information concernant n'importe quel aspect de l'équité salariale et des questions connexes;
- c) il fournit des services d'appoint au Tribunal;
- d) il mène les études qu'exige le ministre et prépare des rapports et formule des recommandations en ce qui concerne l'objet de ces études;
- e) il mène une étude au sujet de la discrimination systémique entre les sexes en ce qui concerne la rétribution du travail effectué, dans les secteurs de l'économie où la main-d'oeuvre est traditionnellement à prédominance féminine, par des catégories d'emplois à prédominance féminine dans les établissements qui n'ont pas de catégories d'emplois à prédominance masculine appropriées aux fins d'établir la comparaison visée à l'article 5; dans l'année qui suit la date d'entrée en vigueur, il prépare des rapports et formule des recommandations à l'intention du ministre en vue d'éliminer cette discrimination.

(3) Le lieutenant-gouverneur en conseil nomme une personne à la direction du Bureau de l'équité salariale. Cette personne est le responsable de l'administration de la Commission.

Responsable
de l'adminis-
tration

(4) Le ministre peut exiger que le Bureau de l'équité salariale mène les études liées à l'équité salariale que précise une demande qu'il adresse au dirigeant du Bureau. Il peut également exiger que le Bureau prépare des rapports et formule des recommandations en ce qui concerne l'objet de ces études.

Études exi-
gées par le
ministre

(5) Le dirigeant du Bureau de l'équité salariale présente au ministre, au plus tard le 31 mars de chaque année, un rapport annuel sur les activités et affaires de la Commission. Le ministre le dépose devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Rapport
annuel

34 (1) Le dirigeant du Bureau de l'équité salariale désigne un ou plusieurs employés du Bureau comme agents de révision.

Désignation
des agents
de révision

(2) Il incombe aux agents de révision de contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale et de mener des enquêtes au sujet des oppositions et des plaintes qui ont été déposées auprès de la Commission. Ils peuvent tenter d'amener les parties à accepter un règlement.

Fonctions
des agents
de révision

Powers

(3) A review officer, for the purpose of carrying out his or her duties,

- (a) may enter any place at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination; and
- (e) may provide in an order made under subsection 16 (2) or 24 (1) that any job class is a female job class or a male job class.

Non-application of R.S.O. 1980, c. 484

(4) The *Statutory Powers Procedure Act* does not apply to a review officer and he or she is not required to hold a hearing before making an order authorized by this Act.

Entry to dwellings

35.—(1) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Warrant for search

(2) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Il leur incombe de prendre toute autre mesure prévue par la présente loi ou par une ordonnance du Tribunal.

(3) Dans l'exercice de ses fonctions, l'agent de révision Pouvoirs peut :

- a) à une heure raisonnable, pénétrer dans un endroit quelconque;
- b) exiger la production, à des fins d'inspection, de documents ou d'objets qui peuvent être reliés à l'exercice de ses fonctions;
- c) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent, les documents ou les objets produits à la suite de la demande formulée en vertu de l'alinéa b), aux fins d'en tirer des copies ou des extraits, après quoi ils sont promptement retournés à la personne qui les a produits;
- d) interroger quiconque sur des questions qui sont ou peuvent être reliées à l'exercice de ses fonctions, sous réserve du droit de cette personne à la présence d'un avocat ou d'un autre représentant lors de l'interrogatoire;
- e) stipuler, dans un ordre donné aux termes des paragraphes 16 (2) ou 24 (1), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) La *Loi sur l'exercice des compétences légales* ne s'applique pas à un agent de révision, et celui-ci n'est pas obligé de tenir une audience avant de donner un ordre autorisé par la présente loi. Non-application du chap. 484 des L.R.O. de 1980

35 (1) Le pouvoir accordé par la présente loi de pénétrer dans un endroit qui sert de logement, ne peut être exercé sans la permission de l'occupant, sauf en vertu d'un mandat délivré aux termes du présent article. Accès à un logement

(2) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves à l'agent de révision dans l'exercice de ses fonctions aux termes de la présente loi, peut délivrer un mandat de perquisition rédigé selon la formule prescrite. Le mandat autorise l'agent de révision qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des Mandat de perquisition

Warrant for entry

(3) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

Execution and expiry of warrant

(4) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(5) No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

Idem

(6) Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

Admissibility of copies

(7) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

PART VI

Regulations and Miscellaneous

Regulations

36. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and notices and providing for their use;
- (b) prescribing methods for determining the historical incumbency of a job class;
- (c) prescribing criteria that shall be taken into account in deciding whether a job class is a female job class or a male job class;

extraits, après quoi elles sont promptement retournées à cet endroit.

(3) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un agent de révision, dans l'exercice de ses fonctions en vertu de la présente loi, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut délivrer un mandat rédigé selon la formule prescrite, autorisant l'agent de révision qui y est nommé à pénétrer dans cet endroit.

Mandat pour pénétrer dans un endroit

(4) Le mandat délivré aux termes du présent article :

Exécution et caducité du mandat

- a) précise les jours et les heures pendant lesquels il peut être exécuté;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de sa délivrance.

(5) Nul ne doit entraver ni gêner un agent de révision dans l'exécution d'un mandat ni d'une autre façon l'empêcher d'exercer ses fonctions aux termes de la présente loi.

Interdiction d'entraver

(6) Sauf si un mandat a été délivré aux termes du paragraphe (2), le paragraphe (5) n'est pas enfreint par le refus d'une personne de produire des documents ou des objets.

Idem

(7) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité des copies

PARTIE VI

Règlements et dispositions diverses

36 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des formules et des avis, et prévoir les modalités de leur emploi;
- b) prescrire les méthodes à utiliser pour déterminer le sexe des personnes qui occupent traditionnellement les postes d'une catégorie d'emplois;
- c) prescrire des critères dont il est tenu compte aux fins de déterminer si une catégorie d'emplois est

- (d) prescribing the method of valuing any form of compensation;
- (e) prescribing criteria that shall be taken into account in determining whether work performed in two job classes is of equal or comparable value;
- (f) prescribing criteria that shall be taken into account in deciding whether or not a difference in compensation between a female job class and a male job class is a difference that is permitted by subsection 8 (1) or (2);
- (g) permitting the Hearings Tribunal, on the application of an employer and in accordance with such criteria as may be prescribed in the regulations, to change the mandatory posting date and the dates for adjustments in compensation to dates later than those set out in Part II and to vary the minimum adjustments in compensation required by that Part, subject to such conditions as the Hearings Tribunal may impose in its order granting the application;
- (h) adding to the Appendix to the Schedule any person or class of persons or any agency, authority, board, commission, corporation or organization of any kind and providing that the mandatory posting date for an entity so added shall be such date as is set out in the regulations.

Review of
Act

37.—(1) Seven years after the effective date, the Lieutenant Governor in Council shall appoint a person who shall undertake a comprehensive review of this Act and its operation.

Report to
Minister

(2) The person appointed under subsection (1) shall prepare a report on his or her findings and shall submit the report to the Minister.

Idem

(3) The Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Moneys

38. The moneys required for the purposes of this Act by the Crown in right of Ontario shall, until the 31st day of March, 1988, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

- une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- d) prescrire la méthode à utiliser pour déterminer la valeur de toute forme de rétribution;
 - e) prescrire des critères dont il est tenu compte aux fins de déterminer si le travail effectué dans deux catégories d'emplois est de valeur égale ou comparable;
 - f) prescrire des critères dont il est tenu compte aux fins de déterminer si un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine est un écart permis par les paragraphes 8 (1) ou (2);
 - g) permettre au Tribunal, à la demande d'un employeur et conformément aux critères qui peuvent être prescrits dans les règlements, de reporter la date d'affichage obligatoire et les dates des rajustements de la rétribution à des dates postérieures à celles que prévoit la partie II, ainsi que de modifier les rajustements minimaux de la rétribution exigés par cette partie, aux conditions que le Tribunal peut imposer dans l'ordonnance par laquelle il consent à la demande;
 - h) ajouter à l'appendice de l'annexe une personne, une catégorie de personnes ou un organisme, un office, un conseil, une commission, une personne morale ou une organisation quelconque, et prévoir que la date d'affichage obligatoire de ces derniers est celle qui figure aux règlements.

37 (1) Sept ans après la date d'entrée en vigueur, le lieutenant-gouverneur en conseil nomme une personne qui procède à l'examen global de la présente loi et des modalités de son application.

Examen de la loi

(2) La personne nommée aux termes du paragraphe (1) rédige un rapport qui énonce ses conclusions et le présente au ministre.

Rapport au ministre

(3) Le ministre dépose le rapport devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Idem

38 Les sommes d'argent nécessaires à la Couronne du chef de l'Ontario pour l'application de la présente loi sont prélevées, jusqu'au 31 mars 1988, sur le Fonds du revenu conso-

Sommes d'argent

- Crown bound **39.** This Act binds the Crown in right of Ontario.
- Commence-
ment **40.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **41.** The short title of this Act is the *Pay Equity Act, 1987*.

SCHEDULE

1. The public sector in Ontario consists of,
- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
- R.S.O. 1980,
c. 303 (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario;
- R.S.O. 1980,
c. 129 (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown;
- R.S.O. 1980,
cc. 410, 389,
79, 391 (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*;
- (e) every corporation with share capital, at least 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- 1983, c. 10 (g) every board of health under the *Health Promotion and Protection Act, 1983*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality;

lidé. Après cette date, ces sommes sont prélevées sur les sommes affectées à cette fin par la Législature.

39 La présente loi lie la Couronne du chef de l'Ontario. La Couronne est liée

40 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

41 Le titre abrégé de la présente loi est *Loi de 1987 sur l'équité salariale*. Titre abrégé

ANNEXE

1 Le secteur public en Ontario se compose des éléments suivants :

- a) la Couronne du chef de l'Ontario, les organismes qui en relèvent, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont la majorité des administrateurs, des membres ou des dirigeants sont nommés ou choisis par le lieutenant-gouverneur en conseil ou par un membre du Conseil des ministres ou avec leur approbation;
- b) les municipalités de l'Ontario, les conseils locaux au sens de la *Loi sur les affaires municipales*, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont les membres ou les dirigeants sont nommés ou choisis par le conseil d'une municipalité de l'Ontario ou avec son approbation; L.R.O. 1980, chap. 303
- c) les conseils au sens de la *Loi sur l'éducation*, ainsi que les collèges, les universités et les établissements d'enseignement postsecondaire de l'Ontario qui reçoivent la majeure partie de leur capital ou de leurs fonds annuels de fonctionnement de la Couronne; L.R.O. 1980, chap. 129
- d) les hôpitaux dont le nom figure à l'annexe du Règlement 863 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur les hôpitaux publics*, les hôpitaux privés exploités aux termes d'un permis délivré en vertu de la *Loi sur les hôpitaux privés*, les hôpitaux établis ou agréés par le lieutenant-gouverneur en conseil à titre d'hôpitaux psychiatriques communautaires en vertu de la *Loi sur les hôpitaux psychiatriques communautaires*, ainsi que les maisons de santé titulaires d'un permis délivré par le lieutenant-gouverneur en conseil en vertu de la *Loi sur les maisons de santé*; L.R.O. 1980, chap. 410, 389, 79, 391
- e) les personnes morales disposant d'un capital-actions dont au moins 90 pour cent des actions émises sont détenues à titre bénéficiaire par un ou plusieurs employeurs visés aux alinéas a) à d) ou pour le compte de ceux-ci, ainsi que les filiales en propriété exclusive de ces personnes morales;
- f) les personnes morales sans capital-actions dont la majorité des membres ou des dirigeants sont nommés ou choisis par un ou plusieurs des employeurs visés aux alinéas a) à d) ou avec leur approbation, ou en sont membres, ainsi que les filiales en propriété exclusive de ces personnes morales;
- g) les conseils de santé aux termes de la *Loi de 1983 sur la protection et la promotion de la santé*, ainsi que les conseils de santé aux termes d'une loi de la Législature qui crée ou maintient une municipalité régionale; 1983, chap. 10

- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Assembly, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the Appendix to this Schedule or added to the Appendix by the regulations made under this Act.

2. For the purposes of this Schedule, "municipality" includes a metropolitan, regional or district municipality and the County of Oxford.

APPENDIX

MINISTRY OF AGRICULTURE AND FOOD

1. Ontario Dairy Herd Improvement Corporation.

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTRY OF COLLEGES AND UNIVERSITIES

1. Algoma College.
2. Assumption University.
3. Brescia College.
4. Canterbury College.
5. Collège dominicain de philosophie et de théologie.
6. Concordia Lutheran Seminary.
7. Conrad Grebel College.
8. Hearst College.
9. Holy Redeemer College.
10. Huntington University.
11. Huron College.
12. Iona College.
13. King's College.
14. Knox College.
15. L'Université de Sudbury.
16. McMaster Divinity College.

- h) le Bureau du lieutenant-gouverneur de l'Ontario et celui de l'Assemblée, les membres de l'Assemblée, le Bureau de l'ombudsman et celui du vérificateur provincial;
- i) les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes et les catégories de ceux-ci qui figurent dans l'appendice à la présente annexe ou qui sont ajoutés à l'appendice au moyen de règlements pris en application de la présente loi.

2 Pour l'application de la présente annexe, le terme «municipalité» s'entend en outre d'une municipalité régionale, de district ou de communauté urbaine, ainsi que du comté d'Oxford.

APPENDICE

MINISTÈRE DE L'AGRICULTURE ET DE L'ALIMENTATION

1. Ontario Dairy Herd Improvement Corporation.

MINISTÈRE DES AFFAIRES CIVIQUES ET CULTURELLES

1. Musée des beaux-arts de l'Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTÈRE DES COLLÈGES ET UNIVERSITÉS

1. Algoma College.
2. Assumption University.
3. Brescia College.
4. Canterbury College.
5. Collège dominicain de philosophie et de théologie.
6. Concordia Lutheran Seminary.
7. Conrad Grebel College.
8. Collège de Hearst.
9. Holy Redeemer College.
10. Huntington University.
11. Huron College.
12. Iona College.
13. King's College.
14. Knox College.
15. L'Université de Sudbury.
16. McMaster Divinity College.

17. Nipissing College.
18. Queen's Theological College.
19. Regis College.
20. Renison College.
21. St. Augustine's Seminary.
22. St. Paul's United College.
23. St. Paul University.
24. St. Peter's Seminary.
25. The University of St. Jerome's College.
26. The University of St. Michael's College.
27. Thorneloe University.
28. Trinity College.
29. Victoria University.
30. Waterloo Lutheran Seminary.
31. Wycliffe College.

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
 - (a) children's residences operating under the *Child and Family Services Act, 1984* (c. 55);
 - (b) homes for the aged operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (c) counselling services and staff training purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (e) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
 - (f) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;

17. Nipissing College.
18. Queen's Theological College.
19. Regis College.
20. Renison College.
21. St. Augustine's Seminary.
22. St. Paul's United College.
23. Université Saint-Paul.
24. St. Peter's Seminary.
25. The University of St. Jerome's College.
26. The University of St. Michael's College.
27. Thorneloe University.
28. Trinity College.
29. Victoria University.
30. Waterloo Lutheran Seminary.
31. Wycliffe College.

MINISTÈRE DES SERVICES SOCIAUX ET COMMUNAUTAIRES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) les foyers pour enfants qui fonctionnent en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55);
- b) les foyers pour personnes âgées qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- c) les services de consultation et de formation du personnel qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- d) les services de consultation qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- e) les centres d'accueil qui fournissent des services qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- f) des programmes d'adaptation au travail en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188) qui sont achetés par des municipalités ou par le ministère des Services sociaux et communautaires;

- (g) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (h) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (i) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (j) nursing services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
 - (k) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
 - (l) services funded under the *Developmental Services Act* (R.S.O. 1980, c. 118);
 - (m) homes for retarded persons and auxiliary residences under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
 - (n) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
 - (o) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
 - (p) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (q) young offenders services funded under Part IV of the *Child and Family Services Act, 1984* (c. 55) or under an agreement with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
 - (r) services to children funded or purchased by the Ministry of Community and Social Services under the *Child and Family Services Act, 1984* (c. 55).
2. Societies within the meaning of the *Child and Family Services Act, 1984* (c. 55) and agencies from whom such societies purchase child care services.
3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).

- g) des services d'appoint pour les personnes atteintes d'un handicap physique qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- h) des services de réadaptation professionnelle financés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- i) des foyers annexes qui fonctionnent ou qui sont financés en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- j) des services de soins infirmiers qui sont achetés ou financés en vertu de la *Loi sur les services d'aides familiales et d'infirmières visiteuses* (L.R.O. 1980, chap. 200);
- k) des ateliers établis en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- l) des services financés en vertu de la *Loi sur les services aux déficients mentaux* (L.R.O. 1980, chap. 118);
- m) des foyers pour déficients mentaux et des établissements auxiliaires aux termes de la *Loi sur les foyers pour déficients mentaux* (L.R.O. 1980, chap. 201);
- n) des garderies dont le fonctionnement est assuré par des personnes morales ou des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111) qui reçoivent des subventions directes du ministère des Services sociaux et communautaires;
- o) des garderies et des sociétés de garde d'enfants en maisons privées qui fournissent des services et qui sont financées aux termes d'ententes conclues avec des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111);
- p) des services de consultation en matière de crédit qui reçoivent une aide financière aux termes d'ententes conclues avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- q) des services aux jeunes contrevenants qui sont financés aux termes de la partie IV de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ou aux termes d'une entente conclue avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- r) des services aux enfants qui sont financés ou achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55).

2 Les sociétés au sens de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ainsi que les agences auprès desquelles ces sociétés achètent des services de soins aux enfants.

3 Les personnes morales qui assurent le fonctionnement d'établissements de bienfaisance agréés en vertu de la *Loi sur les établissements de bienfaisance* (L.R.O. 1980, chap. 64).

4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).

5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,

- (a) assistance to witnesses, victims of crime or disabled persons;
- (b) educational, employment search, medical or promotional services;
- (c) supervision of inmates, parolees, probationers or persons accused of crime;
- (d) community residential services.

MINISTRY OF EDUCATION

1. Centre franco-ontarien de ressources pédagogiques.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Laboratory and Specimen Collection Centre Licensing Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Ministry of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or a facility which, by arrangement with any such home care facility,

4 Les conseils de gestion qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203).

5 Les commissions de district pour l'administration de l'aide sociale fonctionnant en vertu de la *Loi sur les commissions de district pour l'administration de l'aide sociale* (L.R.O. 1980, chap. 122).

MINISTÈRE DES SERVICES CORRECTIONNELS

1 Les organismes, conseils, commissions, personnes ou sociétés en nom collectif qui fournissent, grâce au financement du ministère des Services correctionnels, les services suivants :

- a) des services d'aide aux témoins, aux victimes d'actes criminels ou aux personnes handicapées;
- b) des services d'enseignement, de recherche d'emploi, des services médicaux ou de promotion;
- c) la surveillance de détenus, de personnes en liberté conditionnelle, de probationnaires ou de personnes accusées d'un acte criminel;
- d) des services de placement en établissement communautaire.

MINISTÈRE DE L'ÉDUCATION

1 Centre franco-ontarien de ressources pédagogiques.

MINISTÈRE DE LA SANTÉ

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisation de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) un service d'ambulance, aux termes d'un permis délivré en vertu de la *Loi sur les services d'ambulance* (L.R.O. 1980, chap. 20);
- b) une maison de soins infirmiers, aux termes d'un permis délivré en vertu de la *Loi sur les maisons de soins infirmiers* (L.R.O. 1980, chap. 320);
- c) un laboratoire médical ou un centre de prélèvements, aux termes d'un permis délivré en vertu de la *Loi autorisant des laboratoires médicaux et des centres de prélèvements* (L.R.O. 1980, chap. 409);
- d) un établissement psychiatrique au sens de la *Loi sur la santé mentale* (L.R.O. 1980, chap. 262), dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- e) un foyer de soins spéciaux ouvert, agréé ou autorisé en vertu de la *Loi sur les foyers de soins spéciaux* (L.R.O. 1980, chap. 202);
- f) un établissement de soins à domicile au sens du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197) ou un établissement qui, aux termes d'une entente avec l'établissement de soins à domicile en question, répond aux conditions suivantes :

- (i) supplies nursing, physiotherapy, occupational therapy or speech therapy services that are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
- (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
 - (h) a detoxification centre the operation of which is funded in whole or in part by the Ministry of Health;
 - (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Ministry of Health;
 - (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Ministry of Health.
2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).
 3. A laundry that is operated exclusively for one or more than one hospital.
 4. Hospital Food Services—Ontario Inc.
 5. Toronto District Heating Corporation.
 6. Addiction Research Foundation.
 7. The operations in Ontario of the Canadian Red Cross Society, other than the provision by the society of home support services for the elderly and homemaking services.
 8. The Hospital Council of Metropolitan Toronto.
 9. The Hospital Medical Records Institute.
 10. The Ontario Cancer Institute.
 11. The Ontario Cancer Treatment and Research Foundation.
 12. The Ontario Mental Health Foundation.
 13. The Toronto Institute of Medical Technology.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

1. Metropolitan Toronto Convention Centre.

- (i) fournit des services de soins infirmiers, des services de physiothérapie; d'ergothérapie ou d'orthophonie qui sont des services de soins à domicile assurés aux termes de l'article 44 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197),
- (ii) a droit au paiement, en contrepartie ou à l'égard de la fourniture des services en question, de frais qui lui sont versés par l'établissement des services à domicile en question;
- g) un centre de rééducation ou un centre pour enfants infirmes qui figure sur la liste de l'Annexe 10 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197);
- h) un centre de désintoxication dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- i) un service communautaire de santé mentale aux adultes dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, aux termes d'une entente conclue par écrit;
- j) un service de placement dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, conformément à une «Entente de service de coordination des placements» ou d'une autre entente conclue par écrit.

2 Un conseil régional de santé établi en vertu de la *Loi sur le ministère de la Santé* (L.R.O. 1980, chap. 280).

3 Une blanchisserie qui est exploitée exclusivement aux fins d'un hôpital ou plus.

4 Services alimentaires hospitaliers—Ontario Inc.

5 Toronto District Heating Corporation.

6 Fondation de la recherche sur la toxicomanie.

7 Les activités en Ontario de la Société canadienne de la Croix-Rouge, autres que la fourniture de services d'appoint à domicile pour les personnes âgées et de services d'aides familiales.

8 The Hospital Council of Metropolitan Toronto.

9 The Hospital Medical Records Institute.

10 The Ontario Cancer Institute.

11 The Ontario Cancer Treatment and Research Foundation.

12 The Ontario Mental Health Foundation.

13 The Toronto Institute of Medical Technology.

MINISTÈRE DE L'INDUSTRIE, DU COMMERCE ET DE LA TECHNOLOGIE

1 Metropolitan Toronto Convention Centre.

MINISTRY OF MUNICIPAL AFFAIRS

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) the collection, removal and disposal of garbage and other refuse for a municipality;
- (b) the operation and maintenance of buses for the conveyance of passengers under an agreement with a municipality.

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission.

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board.

MINISTÈRE DES AFFAIRES MUNICIPALES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) la collecte, l'enlèvement et l'élimination des ordures ménagères et d'autres déchets pour le compte d'une municipalité;
- b) le maintien et l'exploitation d'autobus pour le transport de passagers aux termes d'une entente conclue avec une municipalité.

MINISTÈRE DES RICHESSES NATURELLES

1 Les offices de protection de la nature créés en vertu de la *Loi sur les offices de protection de la nature* (L.R.O. 1980, chap. 85).

MINISTÈRE DU TOURISME ET DES LOISIRS

1 St. Clair Parkway Commission.

MINISTÈRE DU TRÉSOR ET DE L'ÉCONOMIE

1 La Commission du régime de retraite des employés municipaux de l'Ontario.



Bill 170

An Act to revise the Pension Benefits Act

The Hon. M. Kwinter

Minister of Financial Institutions

1st Reading December 9th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill revises the *Pension Benefits Act*. The changes include the following:

1. The role of the administrator of a pension plan is emphasized. (sections 8, 20)
2. Minimum contents to be set out in a pension plan are established. (section 10)
3. A statutory standard of care is set out for persons involved in the administration of pension plans and pension funds. (section 23)
4. Provision is made for the appointment of advisory committees to monitor the pension plan where there is no member representation on the body responsible for the administration of the plan. (section 25)
5. A maximum period of two years of employment for full-time employees to become eligible to join a pension plan is established. (section 32)
6. The maximum eligibility for membership in a pension plan for part-time employees is two years of employment with minimum income based on the Year's Maximum Pensionable Earnings. (section 32)
7. All employees in a class of employees, whether full-time or part-time, are eligible to become members of a pension plan that has been established for that class of employees. (section 32)
8. The maximum normal retirement date for pension plans is set as not later than one year after the attainment of sixty-five years of age. (section 36)
9. The maximum vesting period for benefits earned after December 31, 1986 is twenty-four months. (section 38)
10. Employers' contributions must provide at least 50 per cent of a pension earned after December 31, 1986. (section 40)
11. Persons who terminate employment are entitled to receive an early retirement pension at any time within ten years of attaining the normal retirement date established by the plan. (section 42)
12. Employees are given transfer options with respect to their deferred pensions upon termination of employment. The portability will be subject to limitations prescribed by regulation that relate to the solvency of the pension plan and that require the amount transferred to be treated in the same way as a pension. (section 43)
13. Where a person entitled to start receiving pension benefits has a spouse at the date payment commences, that pension must be in the form of a joint and survivor pension, unless the spouses have made a decision that it should be otherwise. (section 45)
14. The remarriage of a person who is receiving a survivor benefit under a pension plan will not disentitle that person to payment of the pension. (section 48)
15. The Bill provides for a minimum benefit to be paid to a spouse or a beneficiary where a person who is entitled to a deferred pension dies prior to receiving that pension. (section 49)
16. Where spouses have decided to split a pension by domestic agreement, or an order under the *Family Law Act, 1986* gives a spouse an interest in the other spouse's pension, the agreement or order is not effective to require payment of the pension benefit until the pension is in pay. (section 52)

17. Pension plans will not be able to discriminate on the basis of sex. (section 53)
18. Reductions based on entitlements to benefits under the *Canada Pension Plan*, *Quebec Pension Plan* or *Old Age Security Act* will be regulated. Also, new pension plans will not be able to permit the reduction of a pension based on the person's entitlement under the *Old Age Security Act*. (section 55)
19. Notice requirements related to an application for payment out of a pension plan to an employer of any surplus in the plan are set out in the Act. Criteria which the plan will have to satisfy prior to payment of surplus out of a plan to the employer will be established by regulation. The Commission is prohibited from giving its consent to an application until a prescribed date. (sections 79, 80)
20. A formal hearing procedure for proposals made by the Superintendent is established. The hearings will be by the Commission. (sections 90, 92)



Bill 170

1987

An Act to revise the Pension Benefits Act

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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:

Definitions

1. In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond

any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund;

“administrator” means the person or persons that administer the pension plan;

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

“bridging benefit” means a periodic payment provided under a pension plan to a member of the pension plan for a temporary period of time after retirement for the purpose of supplementing the member’s pension benefit until the member is eligible to receive benefits under the *Old Age Security Act* (Canada) or commences to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*;

R.S.C. 1970,
cc. O-6, C-5

R.S.Q. 1977,
c. R-9

“certified copy” means a copy certified to be a true copy;

“collective agreement” has the same meaning as in the *Labour Relations Act*;

R.S.O. 1980,
c. 228

“Commission” means the Pension Commission of Ontario;

“commuted value” means the value calculated in the prescribed manner and as of a fixed date of a pension, a deferred pension, a pension benefit or an ancillary benefit;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

“contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan;

“defined benefit” means a pension benefit other than a defined contribution benefit;

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

“designated province” means a province or territory of Canada that is prescribed by the regulations as a province or territory in which there is in force legislation substantially similar to this Act;

“employee” means a natural person who is employed by an employer;

“employer”, in relation to a pension plan, a member of a pension plan or a former member of a pension plan, means the employer required to make contributions under the pension plan;

“file” means file with the Superintendent;

“former member” means a person who has terminated employment or membership in a pension plan, and,

- (a) is entitled to a deferred pension payable from the pension fund,
- (b) is in receipt of a pension payable from the pension fund,
- (c) is entitled to commence receiving payment of pension benefits from the pension fund within one year after termination of employment or membership, or
- (d) is entitled to receive any other payment from the pension fund;

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act;

“insurance company” means a corporation authorized to undertake life insurance in Canada;

“joint and survivor pension” means a pension payable for life to the person entitled to the pension and thereafter in whole or in part for life to the survivor of the person and the person’s spouse;

“member” means a member of the pension plan;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council for the purposes of this Act;

“multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who contribute or on whose behalf contributions are made to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates within the meaning of the *Business Corporations Act, 1982*; 1982, c. 4

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members;

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan;

“participating employer”, in relation to a multi-employer pension plan, means an employer required to make contributions to the multi-employer pension plan;

“pension” means a pension benefit that is in payment;

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former member, to which the member or former member will become entitled under the pension plan upon attainment of normal retirement date or to which any other person is entitled upon the death of a member or former member;

“pension committee” means a committee that is the administrator of a pension plan;

“pension fund” means the fund maintained to provide benefits under or related to the pension plan;

“pension plan” means a plan organized and administered to provide pensions for members under which the employer or employers of members of the pension plan are required to make contributions, but does not include,

- (a) an employees' profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act (Canada)*,

R.S.C. 1952,
c. 148

(b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada), or

(c) any other prescribed type of plan;

“prescribed” means prescribed by the regulations;

“qualification date” means, in respect of Ontario, the 1st day of January, 1965, and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;

“reciprocal transfer agreement” means an agreement related to two or more pension plans that provides for the transfer of moneys or credits for employment or both in respect of individual members;

“registration” means registration under this Act;

“regulations” means regulations made under this Act;

“spouse” means either of a man and woman who,

(a) are married to each other, or

(b) are not married to each other and are living together in a conjugal relationship,

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act, 1986*;

1986, c. 4

“Superintendent” means Superintendent of Pensions;

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner;

“termination”, in relation to employment, includes retirement and death;

R.S.O. 1980,
c. 228

“trade union” has the same meaning as in the *Labour Relations Act*;

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund;

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*.

R.S.C. 1970,
c. C-5

APPLICATION

2. This Act binds the Crown.

Crown bound

3. This Act applies to every pension plan that is provided for persons employed in Ontario.

Employees
in Ontario

4.—(1) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work.

Place of
employment

(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person’s remuneration is paid.

Idem

5. The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations.

Greater
pension
benefits

REGISTRATION AND ADMINISTRATION

6.—(1) No person shall administer a pension plan unless a certificate of registration or an acknowledgment of application for registration of the pension plan has been issued by the Superintendent.

Prohibition
of adminis-
tration of
unregistered
pension plan

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan.

Application
of subs. (1)

7.—(1) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent.

Refusal or
revocation

(2) Subsection (1) does not apply to prevent administration for the purpose of wind up of a pension plan.

Exception

8.—(1) A pension plan is not eligible for registration unless it is administered by an administrator who is,

Adminis-
trator

- (a) the employer or employers;
- (b) a pension committee composed of one or more representatives of,
 - (i) the employer or employers, or any person, other than the employer or employers, required to make contributions under the pension plan, and
 - (ii) members of the pension plan;
- (c) a pension committee composed of representatives of members of the pension plan;
- (d) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;
- (e) if the pension plan is a multi-employer pension plan established pursuant to a collective agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one-half are representatives of members of the multi-employer pension plan; or
- (f) a board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan.

Additional members

(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include a representative or representatives of persons who are receiving pensions under the pension plan.

Affiliate
1982, c. 4

(3) For the purpose of clause (1) (b), "employer" includes "affiliate" as defined in the *Business Corporations Act, 1982*, if the employer is a body corporate.

Application for registration

9.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is established, for registration of the pension plan.

Requirements for registration

(2) An application for registration shall be made by paying the prescribed fee to the Commission and filing,

- (a) a completed application in the prescribed form;

- (b) certified copies of the documents that create and support the pension plan;
- (c) certified copies of the documents that create and support the pension fund;
- (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
- (e) a certified copy of the explanations and other information provided under subsection 26 (1); and
- (f) any other prescribed documents.

(3) For the purpose of subsection (2), “document” includes “collective agreement”. Collective agreement

10.—(1) The documents that create and support a pension plan shall set out the following information: Contents of pension plan

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death.
4. The normal retirement date under the pension plan.
5. The contributions or the method of calculating the contributions required by the pension plan.
6. The method of determining benefits payable under the pension plan.
7. The method of calculating interest to be credited to contributions under the pension plan.
8. The mechanism for payment of the cost of administration of the pension plan and pension fund.
9. The mechanism for establishing and maintaining the pension fund.
10. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.

11. The obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations.
12. Any other prescribed information related to the pension plan or pension fund or both.

Multi-
employer
pension plan

(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement shall set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan.

Gradual and
uniform
accrual of
pension
benefits

11.—(1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Variable
contributions
or pension
benefits

(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.

Variable
deferred
profit-sharing

(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

Application
for
registration
of
amendment

12.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment.

Requirements
for
registration

(2) An application for registration of an amendment shall be made by paying the prescribed fee to the Commission and filing,

- (a) a certified copy of the amending document;
- (b) certified copies of any other prescribed documents; and
- (c) any other prescribed information.

(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund. Filing of changes

13.—(1) An amendment to a pension plan is not effective until an application for registration of the amendment is made in accordance with this Act and the regulations. When amendment becomes effective

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered. Retroactive amendment

14.—(1) An amendment to a pension plan is void if the amendment purports to reduce, Reduction of benefits

- (a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
- (b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or
- (c) the amount or the commuted value of an ancillary benefit that a member or a former member is receiving or for which a member has satisfied all eligibility conditions.

(2) Subsection (1) does not apply in respect of a multi-employer pension plan established pursuant to a collective agreement. Application of subs. (1)

(3) Subsection (1) does not apply in respect of a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement. Idem

15. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for the registration that complies with this Act and the regulations. Acknowledgment of application for registration

16. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act. Issuance of certificate of registration

17. The Superintendent shall issue a notice of registration for each amendment to a pension plan registered under this Act. Issuance of notice of registration

Refusal or
revocation of
registration

18.—(1) The Superintendent may,

- (a) refuse to register a pension plan that does not comply with this Act and the regulations;
- (b) revoke the registration of a pension plan that does not comply with this Act and the regulations;
- (c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;
- (d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations;
- (e) revoke the registration of an amendment that does not comply with this Act and the regulations.

Application
of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 90.

Effect of
refusal or
revocation

(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent.

Idem

(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent.

Wind up

(5) Where registration of a pension plan is refused or revoked, the administrator shall wind up the pension plan in accordance with this Act and the regulations.

Conforming
amendment

19.—(1) Every employer who maintains a pension plan on the date this Act comes into force shall amend the pension plan to conform with this Act and the regulations within two years after the date this Act comes into force.

Exception
R.S.O. 1980,
c. 228

(2) If a pension plan is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is in effect on the date this section comes into force, the parties to the collective agreement or arbitration award shall amend the pension plan to conform to this Act and the regulations not later than the earlier of,

- (a) the date that is three years after the date on which this section comes into force; or
- (b) the day immediately after the date on which the collective agreement or arbitration award expires.

(3) The Superintendent shall not refuse to register a pension plan that is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is the subject of an application for registration submitted after the 31st day of December, 1986 if the pension plan would have been eligible for registration under the *Pension Benefits Act*.

Registration
R.S.O. 1980,
cc. 228, 373

20.—(1) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with this Act and the regulations.

Duty of administrator

(2) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with,

Idem

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

(3) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment.

Idem,
amendment

21.—(1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the prescribed form and shall pay the prescribed filing fee.

Administrator's
annual
information
return

(2) The administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations.

Additional
reports

Reciprocal
transfer
agreement

22. An administrator of a pension plan shall file a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan.

Care,
diligence
and skill

23.—(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Special
knowledge
and skill

(2) The administrator or, if the administrator is a committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall use in the administration of the pension plan, and in the administration and investment of the pension fund, all relevant knowledge and skill that the administrator or member possesses or, by reason of his or her profession, business or calling, ought to possess.

Conflict of
interest

(3) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit his or her interest to conflict with his or her duties and powers in respect of the pension fund.

Employment
of agent

(4) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund.

Responsi-
bility
for agent

(5) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Employee
or agent

(6) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1), (2) and (3).

Benefit by
administrator

(7) The administrator of a pension plan or, if the administrator is a pension committee or a board of trustees, a member of the committee or board is not entitled to any benefit from the pension plan other than pension benefits and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan.

Payment
to agent

(8) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the

usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.

24. An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations. Information from employer

25.—(1) The members of a pension plan by a majority vote may establish an advisory committee. Advisory committee

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established under subsection (1). Representation

(3) The purposes of an advisory committee are, Purposes

- (a) to monitor the administration of the pension plan;
- (b) to make recommendations to the administrator respecting the administration of the pension plan; and
- (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.

(4) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent. Examination of records

(5) Subsection (1) does not apply, Application of subs. (1)

- (a) if the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or
- (b) in respect of a multi-employer pension plan established pursuant to a collective agreement.

(6) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee. Administrator to provide information

DISCLOSURE OF INFORMATION

Information
from
administrator

26.—(1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan,

- (a) an explanation of the provisions of the plan that apply to the person;
- (b) an explanation of the person's rights and obligations in respect of the pension plan; and
- (c) any other information prescribed by the regulations.

Time

(2) The administrator shall provide the information mentioned in subsection (1),

- (a) to each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
- (b) to a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which the person is likely to become eligible;
- (c) to each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which the person becomes so employed.

Information
from
employer

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection.

Notice of
proposed
amendment

27.—(1) If the administrator of a pension plan applies for registration of an amendment to the pension plan that may adversely affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund, the Superintendent shall require the administrator to transmit to each such member, former member or other person a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and shall certify to the Superintendent the date on which the last such notice was transmitted.

(2) If the Superintendent has required the administrator to transmit notices under subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but after the expiration of the forty-five day period the Superintendent may register the amendment with such changes as are requested in writing by the administrator.

Registration

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and an explanation of the amendment to each member, former member and other person affected by the amendment.

Notice after registration

(4) The Superintendent need not require the transmittal of notices under subsection (1) or by order may dispense with the notice required by subsection (3), or both, if the Superintendent is of the opinion that the amendment is of a technical nature and will not substantially affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund or if the amendment has been agreed to by a trade union that represents the members.

Order dispensing with notice

28. The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member's pension benefits and any ancillary benefits.

Annual statement of pension benefits

29.—(1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member, the administrator of the pension plan shall give to the member, or to any other person who as a result becomes entitled to a payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

Statement of benefits

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member.

Multi-employer pension plan

30.—(1) On written request, the administrator of a pension plan shall make available the prescribed documents and information in respect of the pension plan for inspection without charge by,

Inspection of administrator's documents

- (a) a member;

- (b) a former member;
- (c) the spouse of a member or former member;
- (d) an agent authorized in writing by a member, former member or the spouse of a member or former member; or
- (e) a representative of a trade union that represents members of the pension plan.

Place of
inspection

(2) The administrator shall make the prescribed documents and information available,

- (a) for a member, at the premises of the employer where the member is employed;
- (b) for a former member, at the premises where the former member was employed; or
- (c) for a member, former member or any other person, at such other location as may be agreed upon by the administrator and the member, former member or other person making the request.

Extracts
or copies

(3) The administrator shall permit the person making the inspection to make extracts from or to copy the prescribed documents and information.

Idem

(4) On request, the administrator shall provide the person making the inspection with copies of any of the prescribed documents or information upon payment to the administrator of a reasonable fee.

Limitation

(5) A member, former member or spouse, or the agent of any of them, or a trade union by a representative, is entitled to make an inspection under subsection (1) not more than once in a calendar year.

Inspection
of filed
documents

31.—(1) The persons mentioned in subsection (2) are entitled to inspect at the offices of the Commission during business hours of the Commission the documents that comprise a pension plan and such other prescribed documents as are filed in respect of the pension plan, and are entitled to copies of the documents upon payment of the prescribed fees.

Persons
entitled to
inspect

(2) The persons entitled to make the inspection in respect of a pension plan are,

- (a) a member;

- (b) a former member;
- (c) the spouse of a member or former member;
- (d) an agent authorized in writing by a member, former member or the spouse of a member or former member; or
- (e) a representative of a trade union that represents members of the pension plan.

MEMBERSHIP

32.—(1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.

Eligibility
for
membership

(2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.

Full-time
employment

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer with earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.

Part-time
employment

(4) A multi-employer pension plan may require a total of not more than twenty-four months of employment by one or more of the participating employers and earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

Multi-
employer
pension plan

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection.

Approval

33. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that he or she has earnings of less

Loss of
membership

than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year.

Dispute as to member of class of employees

34.—(1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 90, by order may require the administrator to accept the employee as a member.

Ground for order

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class.

Separate pension plan

35. An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment.

RETIREMENT AND VESTING

Right to pension

36.—(1) A member of a pension plan is entitled to a pension under the pension plan calculated in accordance with the benefit formula of the pension plan if,

- (a) the member's employment with the employer is terminated on or after the normal retirement date under the pension plan;
- (b) in respect of employment before the 1st day of January, 1987, the member was employed by the employer, or was a member of the pension plan, for a continuous period of at least ten years at the date of termination of the employment; and
- (c) in respect of employment after the 31st day of December, 1986, the member was a member of the pension plan for a continuous period of at least twenty-four months.

Normal retirement date

(2) The normal retirement date under a pension plan submitted for registration after the 31st day of December, 1986 shall not be later than one year after the attainment of sixty-five years of age.

Transitional

(3) Every pension plan registered or submitted for registration before the 1st day of January, 1987 shall be deemed to

specify a normal retirement date in respect of pension benefits that accrue after the 31st day of December, 1986 that is not later than one year after the attainment of sixty-five years of age, unless the pension plan specifies an earlier normal retirement date.

(4) A member of a pension plan who continues to be employed by the employer after the normal retirement date and who is not receiving a pension under the pension plan, has the right to continue to be a member of the pension plan to the date of termination of the employment and has the right to continue to accrue pension benefits calculated in accordance with the benefit and contribution formula of the pension plan to the date of termination of the employment to the maximum benefits allowed under the pension plan.

Continuation
after normal
retirement
date

37.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Deferred
pension
for past
service

(2) The qualifications are,

Qualifications

- (a) that the member must have been employed by the employer, or have been a member of the pension plan, for a continuous period of at least ten years;
- (b) that the member must have reached the age of forty-five years; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan as it existed on the 31st day of December, 1986 in respect of employment before the 1st day of January, 1987 in Ontario or in a designated province,

Amount

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Application
of
subss. (1-3)

Deferred
pension

38.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Qualifications

(2) The qualifications are,

- (a) that the member must be a member after the 31st day of December, 1986;
- (b) that the member must be a member for a continuous period of at least twenty-four months; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided in respect of employment in Ontario or in a designated province,

- (a) under the pension plan in respect of employment by the employer after the later of the 31st day of December, 1986 or the qualification date if the qualification date is later than the 31st day of December, 1986;
- (b) under any amendment made to the pension plan after the 31st day of December, 1986; and
- (c) under any new pension plan established after the 31st day of December, 1986 for members of the pension plan.

Application
of
subss. (1-3)

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Termination
by member

39.—(1) A person who is,

- (a) a member of a multi-employer pension plan;
- (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or
- (c) a member of a pension plan who has been laid off from employment by the employer,

is entitled to terminate his or her membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-

four consecutive months or for such shorter period of time as is specified in the pension plan.

(2) For the purpose of determining benefits under this Act, a person who terminates his or her membership in a pension plan shall be deemed to have terminated his or her employment.

Effect of termination

(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement respecting the two pension plans.

Application of subss. (1, 2)

BENEFITS

40.—(1) If the commuted value of a member's deferred pension accrued prior to the 1st day of January, 1987 is less than the value of the contributions the member was required to make under the pension plan prior to that date plus interest credited to the contributions, the member is entitled to have the commuted value of the deferred pension increased so that the commuted value is equal to the value of the contributions and the interest.

Value of deferred pension

(2) An increase in the value of the deferred pension resulting from an amendment to the pension plan made after the 31st day of December, 1986 shall not be included in calculating the commuted value of the deferred pension for the purposes of subsection (1).

Effect of amendment

(3) A member's contributions made after the 31st day of December, 1986 under a pension plan shall not be used to provide more than 50 per cent of the commuted value of the pension or deferred pension in respect of the contributory benefit accrued after that date to which the member is entitled under the pension plan on termination of membership or employment by the employer.

50 per cent rule

(4) A member mentioned in subsection (3) is entitled upon termination of employment or membership to payment from the pension fund of an amount equal to the amount by which the member's contributions under the pension plan plus the interest on the contributions exceeds one-half of the commuted value of the member's pension or deferred pension in respect of the contributory benefit accrued after the 31st day of December, 1986.

Entitlement to excess amount

Application
of
subss. (3, 4)

(5) Subsections (3) and (4) do not apply in respect of a defined contribution benefit or a benefit from additional voluntary contributions.

Matters that
may be
included

(6) The following may be included by the administrator of the pension plan in calculating a member's contributory benefit for the purposes of subsection (3):

1. Ancillary benefits related to employment after the 31st day of December, 1986.
2. Increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made after the 31st day of December, 1986.
3. Pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established after the 31st day of December, 1986.

Ancillary
benefits

41.—(1) A pension plan may provide the following ancillary benefits:

1. Disability benefits.
2. Death benefits in excess of those provided in section 49 (pre-retirement death benefit).
3. Bridging benefits.
4. Supplemental benefits, other than bridging benefits, payable for a temporary period of time.
5. Early retirement options and benefits in excess of those provided by section 42 (early retirement option).
6. Postponed retirement options and benefits in excess of those referred to in subsection 36 (4).
7. Any prescribed ancillary benefit.

Use in
calculating
pension
benefit

(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit.

42.—(1) A former member is entitled to elect to receive an early retirement pension under the pension plan if he or she, Early retirement option

- (a) terminated employment with the employer after the 31st day of December, 1986;
- (b) is entitled to a deferred pension under this Act; and
- (c) is within ten years of attaining the normal retirement date.

(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment with the employer is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to receive an early retirement pension under the pension plan. Idem

(3) The commuted value of a member's early retirement pension must be not less than the commuted value of the member's pension benefit under the pension plan. Commuted value

(4) The commuted value of a former member's early retirement pension must be not less than the commuted value of the former member's deferred pension benefit under the pension plan. Idem, former member

(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten year period mentioned in subsection (1) or (2). Payment

(6) An election under subsection (1) or (2) shall be made in writing, signed by the member or former member and delivered to the administrator of the pension plan. Election

43.—(1) A member of a pension plan whose employment with the employer is terminated and who is entitled to a deferred pension is entitled to require the administrator to pay the commuted value of the deferred pension, Transfer

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or

- (c) for the purchase for the member of a deferred life annuity under which payments will not commence more than ten years before the normal retirement date under the pension plan.

Limitation

(2) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.

Application of subs. (1)

(3) Subsection (1) does not apply to a member whose employment is terminated and who is entitled to immediate payment of a pension benefit under the pension plan or under section 42, unless the pension plan provides such an entitlement.

Direction

(4) A member may exercise his or her entitlement under subsection (1) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Superintendent.

Compliance with direction

(5) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction.

Terms of arrangement or deferred annuity

(6) The administrator shall not make payment,

- (a) under clause (1) (b) unless the retirement savings arrangement meets the requirements prescribed by the regulations; or
- (b) under clause (1) (c) unless the contract to purchase the deferred life annuity meets the prescribed requirements and payments under the deferred life annuity will not commence more than ten years before the normal retirement date under the pension plan.

Approval

(7) If a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent.

Terms and conditions

(8) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances.

Order for repayment

(9) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is

failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 90 (hearing), may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.

(10) Subject to section 90 (hearing and appeal), an order for payment under subsection (9), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

44.—(1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company. Purchase of pension

(2) The authority of the administrator under subsection (1) is subject to the entitlement of a member under section 43 and to the limitations prescribed in relation to transfers of funds from pension funds. Limitations

(3) If a purchase under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent. Approval by Superintendent

(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Idem

(5) If a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent, subject to section 90 (hearing), by order may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. Order for repayment

(6) Subject to section 90 (hearing and appeal), an order for payment under subsection (5), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

45.—(1) Every pension paid under a pension plan to a former member who has a spouse on the date that the pay- Joint and survivor pension benefits

ment of the first instalment of the pension is due shall be a joint and survivor pension.

Commuted
value

(2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the former member.

Amount of
survivor
benefit

(3) The amount of the pension payable to the survivor of the former member and the spouse of the former member shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and his or her spouse.

Application
of
subss. (1-3)

(4) Subsections (1) to (3) do not apply,

- (a) in respect of a pension benefit if payment of the pension has commenced before the 1st day of January, 1987; or
- (b) in respect of a former member who is living separate and apart from his or her spouse on the date that payment of the first instalment of the pension is due.

Information
for payment

46.—(1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit.

Person to
provide
information

(2) The person entitled to the payment shall provide the information to the administrator.

Discharge
of
administrator

(3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator.

Waiver of
joint and
survivor
pension
benefit

47.—(1) The persons entitled to a joint and survivor pension benefit may waive the entitlement by delivering to the administrator of the pension plan a written direction in the form that shall be supplied by the Superintendent or a certified copy of a domestic contract, as defined in Part IV of the *Family Law Act, 1986*, containing the waiver.

1986, c. 4

Time

(2) The waiver is not effective unless the written direction or certified copy is delivered to the administrator within the

period of twelve months immediately preceding the commencement of payment of the pension benefit.

(3) Persons who have delivered a waiver under subsection (1) may jointly cancel the waiver by written and signed notice delivered to the administrator before commencement of payment of the pension benefit. Cancellation of waiver

48.—(1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of remarriage after the death of the former member. Remarriage of spouse

(2) Subsection (1) applies in respect of pensions that are being paid on the 1st day of January, 1987 or that commence to be paid after the 31st day of December, 1986. Application of subs. (1)

49.—(1) If a person entitled under a pension plan to a deferred pension described in section 38 (entitlement to deferred pension) dies before commencement of payment of the deferred pension, the person's spouse on the date of death is entitled, Pre-retirement death benefit

- (a) to receive payment of an amount equal to the commuted value of the deferred pension; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the deferred pension.

(2) The spouse shall elect within the prescribed period of time to receive payment under clause (1) (a) or to receive an immediate or deferred pension under clause (1) (b), or, if the spouse does not so elect, the spouse shall be deemed to have elected to receive payment under clause (1) (a). Election

(3) If a member of a pension plan dies while employed by the employer, entitlement to a deferred pension and the commuted value of the deferred pension shall be calculated as if the person's employment were terminated immediately before the person's death. Idem

(4) A member or former member of a pension plan may designate a beneficiary and the beneficiary is entitled to be paid an amount equal to the commuted value of the deferred pension mentioned in subsection (1) if the member or former member does not have a spouse on the date of the death of the member or former member. Designated beneficiary

Estate
entitlement

(5) If the member or former member does not have a spouse and has not designated a beneficiary under subsection (4), the estate of the member or former member is entitled to receive payment of the commuted value.

Person to
provide
information

(6) The person entitled to the payment shall provide to the administrator the information needed to make the payment.

Discharge of
administrator

(7) In the absence of actual notice to the contrary, the administrator is discharged on making payment in accordance with the information provided by the person.

Application
of subs. (1)

(8) Subsection (1) does not apply if the person and the person's spouse are living separate and apart on the date of the person's death.

Offset

(9) A pension plan may provide for a reduction of the amount payable under clause (1) (a) or (b) to offset that part of an additional benefit that is attributable to an amount paid by the employer to provide the additional benefit, subject to the following:

1. The amount of the reduction shall be calculated in the prescribed manner.
2. The amount of the reduction shall not exceed the prescribed limit or the limit calculated in the prescribed manner.
3. No reduction shall be made unless the additional benefit is provided under the prescribed type of agreement.

Variation of
payment to
disabled
person

50. A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to shorten considerably the life expectancy of the member or former member.

Commuted
value

51.—(1) A pension plan may provide for payment to a former member of the commuted value of a benefit if the annual benefit is not more than 2 per cent of the Year's Maximum Pensionable Earnings in the year that the former member terminated employment.

Idem

(2) A pension plan registered before the 1st day of January, 1987 may provide that upon termination of employment a person entitled to a deferred pension under section 37 (deferred pension) is entitled to payment of an amount not greater than 25 per cent of the commuted value of the deferred pension.

52.—(1) A domestic contract as defined in Part IV of the *Family Law Act, 1986* or an order under Part I of that Act is not effective to require payment of a pension benefit before the earlier of,

Payment on marriage breakdown 1986, c. 4

- (a) the date on which payment of the pension benefit commences; or
- (b) the normal retirement date of the relevant member or former member.

(2) A domestic contract or an order mentioned in subsection (1) is not effective to reduce the pension benefit of a member or former member of a pension plan to less than one-half of the amount of the pension benefit accrued during the period the member or former member and the other person were spouses.

Reduction of pension benefit

(3) If payment of a pension or a deferred pension is divided between spouses by a domestic contract or an order mentioned in subsection (1), the administrator is discharged on making payment in accordance with the domestic contract or order.

Discharge of administrator

(4) If a domestic contract or an order mentioned in subsection (1) affects a pension, the administrator of the pension plan shall revalue the pension in the prescribed manner.

Revaluation of joint and survivor pension

(5) A spouse on whose behalf a certified copy of an order or domestic contract mentioned in subsection (1) is given to the administrator of a pension plan has the same entitlement under section 43 (transfer) in respect of the commuted value of the spouse's interest in the deferred pension as the member named in the order or domestic contract has in respect of the member's interest in the deferred pension when the member terminates his or her employment.

Transfer

53.—(1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in,

Discrimination on basis of sex

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) determining the pension benefits or the commuted value of pension benefits that a member, former member or other beneficiary is or may become entitled to;

(c) the provision of eligibility conditions for membership; and

(d) the provision of ancillary benefits.

Adminis-
tration

(2) In order to comply with subsection (1), the administrator may,

(a) use annuity factors that do not differentiate as to sex;

(b) provide for employer contributions that vary according to the sex of the employee; or

(c) use any prescribed method of calculation or valuation.

Application

(3) This section applies in respect of contributions, benefits and conditions in relation to,

(a) employment after the 31st day of December, 1986;

(b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; and

(c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

Discrimi-
nation
on basis of
marital status

54.—(1) Where a pension plan provides for a joint and survivor pension benefit, the commuted value of the pension benefit payable to a former member who does not have a spouse shall be equal to the commuted value of the joint and survivor pension benefit payable to a former member who does have a spouse.

Application
of subs. (1)

(2) Subsection (1) applies to pension benefits resulting from,

(a) employment after the 31st day of December, 1986;

(b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; or

- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

55.—(1) The reduction of a pension or a deferred pension that may be required by a pension plan in relation to payment under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula.

Integrated pension plan

R.S.C. 1970,
c. C-5;

R.S.Q. 1977,
c. R-9

R.S.C. 1970,
c. O-6

(2) The reduction referred to in subsection (1) shall be applied prior to any other adjustments required under the pension plan.

Idem

(3) The amount of a reduction in a pension or deferred pension required under a pension plan in relation to the payments mentioned in subsection (1) shall not be increased by reason of an increase in the amount of any of the other payments after the date of the member's termination of employment.

Further reduction

(4) A pension plan for registration of which application is made after the 31st day of December, 1986 shall not permit the reduction of a pension or a deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada).

Reduction re *Old Age Security Act* (Canada)

R.S.C. 1970,
c. O-6

(5) Subsection (4) does not apply to a pension plan that is a successor of a pension plan registered under the *Pension Benefits Act* that permitted such a reduction.

Application of subs. (4)

R.S.Q. 1980,
c. 373

(6) A pension plan shall not permit the reduction of a pension or deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada) in respect of a benefit accrued after the 31st day of December, 1986.

Idem

(7) The value of a bridging benefit, for receipt of which a member or former member has satisfied all eligibility requirements of the pension plan before the 1st day of January, 1987, shall not be reduced by reason only of the eligibility of the member or former member to receive a payment before reaching sixty-five years of age under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada).

Bridging benefit

R.S.C. 1970,
c. C-5

R.S.Q. 1977,
c. R-9

R.S.C. 1970,
c. O-6

(8) If a pension plan provides a bridging benefit without reference to a specific age at which payment of the bridging benefit is to be reduced or to cease, the pension plan shall be

Age

deemed to provide that the bridging benefit shall be reduced or cease to be paid when the recipient of the bridging benefit reaches sixty-five years of age.

Application
of subs. (8)

(9) Subsection (8) ceases to apply to a pension plan that is amended after the 31st day of December, 1986 to establish a specific age for the purpose of determining when a bridging benefit shall be reduced or cease to be paid.

Idem

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

(10) If a pension plan provides for variation of a pension benefit by reason of a benefit payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) without specifically stating the age at which the variation is to occur, the pension plan shall be deemed to provide that the variation is to occur when the recipient of the pension benefit reaches sixty-five years of age.

Application
of subs. (10)

(11) Subsection (10) ceases to apply to a pension plan that is amended after the 31st day of December, 1986 to specifically state the age at which variation of a pension benefit is to occur.

CONTRIBUTIONS

Funding

56.—(1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations.

Payment

(2) An employer required to make contributions under a pension plan, or a person required to make contributions under a pension plan on behalf of an employer, shall make the contributions in the prescribed manner and in accordance with the prescribed requirements for funding,

- (a) to the pension fund; or
- (b) if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan.

Notice to
Superin-
tendent

57.—(1) The administrator of a pension plan or, if there is an agent of the administrator responsible for receiving contributions under the pension plan, the administrator and the agent shall give written notice to the Superintendent of a contribution that is not paid when due.

When notice
required

(2) The administrator and the agent shall give the notice to the Superintendent within sixty days after the date on which

the administrator or the agent first became aware of the failure to pay the contribution.

58.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund. Trust property

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee. Money withheld

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund. Accrued contributions

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations. Wind up

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4). Lien and charge

(6) Subsections (1), (3) and (4) apply whether or not the moneys have been kept separate and apart from other money or property of the employer. Application of subss. (1, 3, 4)

59.—(1) Money that an employer is required to pay into a pension fund accrues on a daily basis. Accrual

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. Interest

60. The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. Collection of contributions

Bond

61. The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount.

Statement of employer's obligation

62. An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the plan a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required to make and any other obligations of the employer under the pension plan.

Investment of pension fund

63. Every person engaged in the investment of moneys of a pension fund shall ensure that the moneys are invested in accordance with this Act and the regulations.

LOCKING IN

Refunds

64.—(1) No member or former member is entitled to a refund from a pension fund of contributions made in respect of employment in Ontario or a designated province on or after the qualification date.

Idem

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon to a member or former member or a payment under subsection 40 (4) (entitlement to excess amount).

Refund related to past employment

(3) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 37 (deferred pension for past service) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment before the 1st day of January, 1987.

Refund related to post-reform employment

(4) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 38 (deferred pension) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment after the 31st day of December, 1986.

Application of subs. (1)

(5) Subsection (1) does not apply,

- (a) to prevent the commutation of a pension benefit under subsection 51 (1) (commuted value);
- (b) to prevent a payment under subsection 51 (2); or
- (c) to such other circumstances as are prescribed.

(6) Subsections (3) and (4) do not apply in respect of a member of a multi-employer pension plan unless the member terminates his or her membership in the multi-employer pension plan.

Application
of
subss. (3, 4)

(7) Notwithstanding subsection (1), on application by the administrator, contributions may be refunded to a member or a former member with the consent of the Commission.

Refund with
consent

(8) On application by the administrator of a pension plan, the Commission may consent to a refund under subsection (7) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions.

Consent of
Commission

65. A pension plan may provide for shorter qualification periods than those set out in subsections 37 (1) (deferred pension for past service) and 38 (1) (deferred pension).

Shorter
qualification
periods

66.—(1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

Void
transactions

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 43 (transfer), 44 (purchase of pension), clause 49 (1) (b) (pre-retirement death benefit) or subsection 74 (2) (transfer rights on wind up) is void.

Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in moneys payable under a pension plan or moneys payable as a result of a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) (transfer rights on wind up) by an order under the *Family Law Act, 1986* or by a domestic contract as defined in Part IV of that Act.

Exemption
for order of
separation
agreement

1986, c. 4

67.—(1) Money payable under a pension plan is exempt from execution, seizure or attachment.

Exemption
from
execution,
seizure or
attachment

- Idem (2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity under section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment.
- Idem (3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment.
- Order for support or maintenance (4) Notwithstanding subsection (1), payments under a pension or that result from a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) are subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half the money payable.
- Application of subs. (4) (5) Subsection (4) applies to orders for support or maintenance enforceable in Ontario whether made before or after the coming into force of this Act.
- Commutation or surrender **68.**—(1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer under section 43, 44, 49 or subsection 74 (2) to which a person is entitled is not capable of being commuted or surrendered during the person's life.
- Void transaction (2) A transaction that purports to commute or surrender such a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement is void.
- Application of subss. (1, 2) (3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 50 (variation of payment to disabled person) or to a commutation of a benefit under section 51 (commuted value).

WINDING UP

- Winding up **69.**—(1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part.
- Notice (2) The administrator shall give written notice of proposal to wind up the pension plan to,
- (a) the Superintendent;
 - (b) each member of the pension plan;
 - (c) each former member of the pension plan;

- (d) each trade union that represents members of the pension plan;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund.

(3) The notice of proposal to wind up shall contain the information prescribed by the regulations. Information

(4) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members. Effective date

(5) The Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change. Order by Superintendent

70.—(1) The Superintendent by order may require the wind up of a pension plan in whole or in part if, Winding up order by Superintendent

- (a) there is a cessation or suspension of employer contributions to the pension fund;
- (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);
- (d) a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (e) all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (f) all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person;

R.S.C. 1970,
c. B-3

- (g) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in whole or in part;
- (h) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
- (i) any other prescribed event or prescribed circumstance occurs.

Date and
notice

(2) In an order under subsection (1), the Superintendent shall specify the effective date of the wind up, the persons or class or classes of persons to whom the administrator shall give notice of the order and the information that shall be given in the notice.

Wind up
report

71.—(1) The administrator of a pension plan that is to be wound up in whole or in part shall file a wind up report that sets out,

- (a) the assets and liabilities of the pension plan;
- (b) the benefits to be provided under the pension plan to members, former members and other persons;
- (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
- (d) such other information as is prescribed.

Payments
out of
pension
fund after
notice of
proposal to
wind up

(2) No payment shall be made out of the pension fund in respect of which notice of proposal to wind up has been given until the Superintendent has approved the wind up report.

Application
of subs. (2)

(3) Subsection (2) does not apply to prevent continuation of payment of a pension or any other benefit the payment of which commenced before the giving of the notice of proposal to wind up the pension plan or to prevent any other payment that is prescribed or that is approved by the Superintendent.

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent. Approval

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan. Refusal to approve

(6) On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up. Rights and benefits on partial wind up

72.—(1) If a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Superintendent may act as or may appoint an administrator. Appointment of administrator to wind up

(2) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent may be paid out of the pension fund. Costs of administration on winding up

73.—(1) On the wind up of a pension plan in whole or in part, the administrator shall give to each person entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out the person's entitlement under the pension plan, the options available to the person and any other prescribed information. Notice of entitlements

(2) If a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 75 (1) (b), and the administrator of the pension plan shall make payment in accordance with the election or deemed election. Election

74.—(1) For the purpose of determining the amounts of pension benefits on the winding up of a pension plan, in whole or in part, Determination of entitlements

- (a) the employment of each member of the pension plan affected by the winding up shall be deemed to

have been terminated on the effective date of the wind up;

- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights under section 75.

Transfer
rights on
wind up

(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 43 (1) (transfer) of a member who terminates employment and, for the purpose, subsection 43 (3) does not apply.

Combination
of age and
years of
employment

75.—(1) A member in Ontario of a pension plan whose combination of age plus years of employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan in whole or in part, has the right to receive,

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;
- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
 - (i) the normal retirement date under the pension plan, or
 - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or
- (c) a reduced pension beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.

Part year

(2) In determining the combination of age plus employment or membership, one-twelfth credit shall be given for each month of age and for each month of employment or membership.

(3) Bridging benefits offered under the pension plan shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

Member for
ten years

(4) For the purposes of subsection (3), if the bridging benefit offered under the pension plan is not related to periods of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up.

Prorated
bridging
benefit

(5) Membership in a pension plan that is wound up in whole or in part includes the period of notice of termination of employment required under Part XII of the *Employment Standards Act*.

Notice of
termination
of
employment
R.S.O. 1980,
c. 137

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment.

Application
of subs. (5)

76.—(1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund,

Liability of
employer on
wind up

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Commission declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits vested under the pension plan, and
 - (iii) the value of benefits resulting from the application of subsection 40 (3) (50 per cent rule) and section 75,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario.

Payment (2) The employer shall pay the moneys due under subsection (1) in the prescribed manner and at the prescribed times.

Pension fund continues subject to Act and regulations **77.** The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed.

Insufficient pension fund **78.** Subject to the application of the Guarantee Fund, where the moneys in a pension fund are not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

SURPLUS

Payment out of pension fund to employer **79.**—(1) No money may be paid out of a pension fund to the employer without the prior consent of the Commission.

Application for payment (2) An employer who applies to the Commission for consent to payment of moneys to the employer out of a pension fund shall transmit notice of the application, containing the prescribed information, to,

- (a) each member and each former member of the pension plan to which the pension fund relates;
- (b) each trade union that represents members of the pension plan;
- (c) any other individual who is receiving payments out of the pension fund; and
- (d) the advisory committee established in respect of the pension fund.

Representations (3) A person to whom notice has been transmitted under subsection (2) may make written representations to the Commission with respect to the application within thirty days after receiving the notice.

Continuing pension plan **80.**—(1) The Commission shall not consent to payment of money to the employer out of a continuing pension plan unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Commission that the applicant is otherwise entitled to withdraw the surplus;
- (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the employer's current service costs is retained in the pension fund as surplus;
- (d) where the members are not required to make contributions under the pension plan, the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,
 is retained in the pension fund as surplus;
- (e) where members are required to make contributions under the pension plan, all surplus attributable to contributions paid by members and the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,
 are retained in the pension fund as surplus; and
- (f) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

(2) Effective the 1st day of January, 1989, a pension plan that does not provide for the withdrawal of surplus moneys while the pension plan continues in existence shall be con-

Where no provision in pension plan

strued to prohibit the withdrawal of surplus moneys accrued after the 31st day of December, 1986.

Wind up

(3) The Commission shall not consent to an application in respect of a pension plan that is being wound up in whole or in part unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for payment of surplus to the employer on the wind up of the pension plan;
- (c) all liabilities of the pension plan, calculated for the purpose of the termination of the pension plan, have been paid; and
- (d) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Idem

(4) Effective the 1st day of January, 1989, a pension plan that does not provide for payment of surplus moneys on the wind up of the pension plan shall be construed to require that surplus moneys accrued after the 31st day of December, 1986 shall be distributed proportionately on the wind up of the pension plan among members, former members and any other persons entitled to payments under the pension plan on the date of the wind up.

Decision

(5) The Commission shall transmit its decision, together with written reasons therefor, to the applicant and to each person who made written representations to the Commission in accordance with subsection 79 (3).

Conditions and limitations

(6) The Commission may attach such conditions and limitations to its consent under this section as the Commission considers necessary in the circumstances.

Application of R.S.O. 1980, c. 484

(7) The *Statutory Powers Procedure Act* does not apply in respect of a decision made by the Commission under this section.

Interim prohibition to giving consent

(8) The Commission shall not consent to payment of money from surplus to the employer out of a continuing pension plan until such date as may be prescribed.

SALES, TRANSFERS AND NEW PLANS

81.—(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan who, in conjunction with the sale, assignment or disposition becomes an employee of the successor employer and becomes a member of a pension plan provided by the successor employer,

Continuation of benefits under successor employer

- (a) continues to be entitled to the benefits provided under the employer's pension plan in respect of employment in Ontario or a designated province to the effective date of the sale, assignment or disposition without further accrual;
- (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and
- (c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

(2) Clause (1) (a) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer's pension plan.

Exception

(3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.

Employment deemed not terminated

(4) Where a transaction described in subsection (1) occurs and the successor employer assumes responsibility in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the successor employer without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Transfer on sale

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the

Consent by Superintendent

employer's pension plan or that does not meet the prescribed requirements and qualifications.

Order for
return

(6) The Superintendent by order may require the transferee to return to the pension fund, with interest, assets transferred without the prior consent required by subsection (4).

Wind up

(7) Where a transaction described in subsection (1) takes place and the successor employer does not provide a pension plan for members of the employer's pension plan who become employees of the successor employer, the administrator of the employer's pension plan shall wind up the pension plan in respect of those members.

Enforcement

(8) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Definition

(9) In this section, "successor employer" means the person who acquires the business or the assets of the employer.

Adoption
of new
pension plan

82.—(1) A pension plan shall not be wound up for the reason only that a new pension plan is established and the employer has ceased to make contributions to the original pension plan.

Continuation
of benefits

(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan.

Application
of subs. (2)

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.

Transfer
of assets

(4) No transfer of assets shall be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Consent by
Superin-
tendent

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications.

Order

(6) The Superintendent by order may require the transferee to return to the pension fund assets, with interest calculated in the prescribed manner, transferred without the prior consent

of the Superintendent or transferred contrary to a prescribed term or condition.

(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

PENSION BENEFITS GUARANTEE FUND

83.—(1) The Pension Benefits Guarantee Fund is continued. Guarantee Fund continued

(2) The Commission is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund. Administration

(3) The Commission may charge to the Guarantee Fund the reasonable expenses incurred by the Commission in the administration of the Guarantee Fund. Expenses

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs. Loans to Guarantee Fund

84.—(1) The Commission, subject to section 91 (notice and representations), shall declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan. Guarantee Fund declaration

(2) The Commission shall make the declaration if, Conditions precedent

- (a) the pension plan is registered under this Act or is registered in a designated province to provide for the reciprocal application of this Act;
- (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
- (c) the pension plan is wound up in whole or in part; and
- (d) the Commission is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied.

Guaranteed
benefits

85.—(1) Where the Guarantee Fund is declared by the Commission to apply to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of employment in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member's employment or membership was terminated before the 1st day of January, 1987 and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 37 or 38 (deferred pension), or both, if the member's or former member's employment or membership was terminated after the 31st day of December, 1986, equal to 20 per cent if the combination of the member's or former member's age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.
4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.
5. The minimum value of all required contributions made to the pension plan by a member or former member in respect of employment in Ontario plus interest.

Bridging
benefits

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits.

Part year

(3) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of employment or membership.

86. The following are not guaranteed by the Guarantee Fund: Payments not guaranteed

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.
2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.
6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans.

87.—(1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Commission has a lien and charge on the assets of the employer or employers who provided the pension plan. Lien for payment out of Guarantee Fund

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations. Amount of lien

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Commission may so register notice of the lien and charge. Real property

(4) The Commission is subrogated to the rights of the administrator of a pension plan in respect of which the Commission authorizes payment from the Guarantee Fund in satis- Subrogation

fraction of a pension, deferred pension, pension benefit or contribution guaranteed under section 85 (guaranteed benefits).

ORDERS

Order by
Superintendent

88.—(1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 90 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

Condition
precedent
to order

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.

Time

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

Reasons
for order

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

Order by
Commission

89.—(1) The Commission, in the circumstances mentioned in subsection (2) and subject to section 91 (notice and representations), by order may require an administrator to take the action specified in subsection (3).

Grounds
for order

(2) The Commission may make an order under this section where the Commission is of the opinion,

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan do not

accord with generally accepted actuarial principles;
or

- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan.

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

Contents
of order

HEARING AND APPEAL

90.—(1) Where the Superintendent proposes to refuse to register a pension plan or an amendment to a pension plan or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator of the plan.

Notice of
proposal
to refuse
or revoke

(2) Where the Superintendent proposes to make an order under,

Notice of
proposal to
make order

- (a) subsection 43 (9) (repayment of money transferred out of pension fund);
- (b) subsection 44 (5) (repayment of money paid to purchase pension, deferred pension or ancillary benefit);
- (c) subsection 81 (6) (transfer of assets to pension fund of successor employer);
- (d) subsection 82 (6) (transfer of assets to new pension fund); or
- (e) section 88 (administration of pension plan or contravention of Act or regulation),

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any other person to whom the Superintendent proposes to direct the order.

(3) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator, and the Superintendent

Notice of
proposal re
membership

shall serve or require the administrator to serve a copy of the notice and the written reasons on the employee.

Notice of proposal to attach terms and conditions to approval or consent

(4) Where the Superintendent proposes to refuse to give an approval or consent or proposes to attach terms and conditions to an approval or consent under this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval or consent.

Notice of proposed wind up order

(5) Where the Superintendent proposes to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and the written reasons on such other persons or classes of persons or both as the Superintendent specifies in the notice to the administrator.

Notice requiring hearing

(6) A notice under subsection (1), (2), (3), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Commission if the person delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

Power of Superintendent

(7) Where the person on whom the notice is served does not require a hearing in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice.

Hearing

(8) Where the person requires a hearing by the Commission in accordance with subsection (6), the Commission shall appoint a time for and hold the hearing.

Power of Commission

(9) At or after the hearing, the Commission by order may direct the Superintendent to carry out or to refrain from carrying out the proposal and to take such action as the Commission considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the Commission may substitute its opinion for that of the Superintendent.

Conditions

(10) The Commission may attach such terms and conditions to its order or to the registration as the Commission considers proper to give effect to the purposes of this Act.

Parties

(11) The Superintendent, the person who requires a hearing and such other persons as the Commission specifies are

parties to the proceeding before the Commission under this section.

(12) A party to a hearing shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the registration of the pension plan.

Opportunity
to show
compliance

(13) A party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination
of
documentary
evidence

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

Release of
documentary
evidence

91.—(1) Where the Commission proposes to consider,

Notice of
proposal by
Commission

- (a) making a declaration that the Guarantee Fund applies to a pension plan;
- (b) making an order requiring the administrator of a pension plan to take specific action in relation to a report in respect of the pension plan; or
- (c) refusing to consent to a refund of contributions under section 64 (refunds),

the Commission shall serve notice of the proposal together with written reasons therefor on the administrator of the pension plan.

(2) The administrator shall transmit copies of the Commission's notice to such other persons or classes of persons or both as the Commission specifies in the notice to the administrator.

Additional
notices

(3) A notice by the Commission under subsection (1) shall state that the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Commission within thirty days after service of the notice under that subsection.

Represent-
ations

(4) An individual who is entitled to make representations to the Commission under subsection (3) shall be afforded an opportunity, during the period of time when representations

Examination
of
documentary
evidence

may be made, to examine any written or documentary evidence that will be produced or any report the contents of which will be considered by the Commission when the Commission considers its proposal.

Notice of decision

(5) The Commission shall transmit a copy of its decision, together with written reasons therefor, to the administrator, the employer and every other person who made representations to the Commission in accordance with subsection (3).

Application of R.S.O. 1980, c. 484

(6) The *Statutory Powers Procedure Act* does not apply in respect of a declaration, refusal or order mentioned in subsection (1) by the Commission.

Appeal to court

92.—(1) A party to a proceeding before the Commission under section 80, 90 or 91 may appeal to the Divisional Court from the decision or order of the Commission.

Certified copy of record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the prescribed fee, the Commission shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from.

Quorum and votes

93.—(1) Three members of the Commission constitute a quorum for the purposes of a proceeding before the Commission under section 90, and decisions in such proceedings require the vote of a majority of the members of the Commission present at the hearing in the proceeding.

Panels

(2) The Commission may sit in two or more panels simultaneously for the purposes of such proceedings.

Assignment

(3) The head of the Commission shall assign the members of the Commission to its panels and may change an assignment at any time.

Expiry of member's term of office

(4) Where a proceeding is commenced before the Commission and the term of office on the Commission of a person sitting for the hearing expires or is terminated, other than for cause, before the proceeding has been disposed of but after evidence has been heard, the person shall be deemed to remain a member of the Commission for the purpose of completing the proceeding in the same manner as if his or her term of office had not expired or been terminated.

PENSION COMMISSION

Commission continued

94.—(1) The Pension Commission of Ontario is continued.

(2) The Commission shall be composed of not fewer than five and not more than nine members appointed by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council shall appoint the head and the deputy head of the Commission from among the members of the Commission.

Head and deputy head

(4) The members of the Commission shall be appointed for terms of not more than three years and may be reappointed for further terms of not more than three years.

Term of office

(5) If the head of the Commission is absent or if there is a vacancy in the office of head of the Commission, the deputy head shall act as and have all the powers of the head of the Commission.

Authority of deputy head

(6) If both the head of the Commission and the deputy head are absent or if there are vacancies in the offices of head of the Commission and deputy head, the member of the Commission designated by the members of the Commission shall act as and have the powers of the head of the Commission.

Acting head

(7) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission or in the offices of head or deputy head of the Commission.

Vacancies

(8) A majority of the members of the Commission, including the head or deputy head of the Commission, constitutes a quorum.

Quorum

(9) Such employees as are necessary to carry out the business of the Commission shall be appointed under the *Public Service Act*.

Employees
R.S.O. 1980,
c. 418

(10) The members of the Commission shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council.

Salary and expenses

95.—(1) The office of Superintendent of Pensions is continued.

Superintendent

(2) The Superintendent shall be appointed by the Commission.

Appointment

(3) The Superintendent is the chief administrative officer of the Commission.

Chief administrative officer

Powers and
duties

(4) The Superintendent shall exercise the powers and perform the duties that are vested in or imposed upon the Superintendent by this Act, the regulations and the Commission.

Delegation
of powers
and duties

(5) The Superintendent may delegate in writing any power or duty of the Superintendent under this Act to any employee of the Commission, subject to the approval of the Commission and subject to any limitation or condition set out in the delegation.

Reciprocal
agreements

96.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

- (a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;
- (b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and
- (c) delegate to a pension supervisory authority or the government of a designated province such functions and powers under this Act as the Commission may determine and the Commission may accept similar delegations of functions and powers from a pension supervisory authority or the government of a designated province.

Applicable
law

(2) Where a pension plan required to be registered in Ontario is registered in a designated jurisdiction, the Commission by order may limit the application of this Act and the regulations to the pension plan and authorize the application of the law of the designated jurisdiction in respect of the pension plan.

Duty of
Commission

97. It is the duty of the Commission,

- (a) to administer this Act and the regulations;
- (b) to promote the establishment, extension and improvement of pension plans throughout Ontario;
- (c) to advise the Minister in respect of the business of the Commission; and

- (d) to make recommendations to the Minister in respect of pension plans.

98.—(1) It is a function of the Commission to conduct surveys and research programs and to compile statistical information related to pensions and pension plans. Research

(2) The Commission may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time. Provision of information

(3) The Commission shall use the information only for the purpose of compiling the statistical information. Confidentiality

99.—(1) The Superintendent may require an employer, an administrator or any other person to supply to the Commission or the Superintendent such information in such form as is acceptable to the Superintendent and within such time limits as specified for the purpose of ascertaining whether or not this Act and the regulations are being complied with. Information

(2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Superintendent or other person designated by the Superintendent. Idem

100. Every person entrusted by the Commission with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*. Security

R.S.O. 1980,
c. 415

101. No member of the Commission or of the staff of the Commission is personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority. Liability of members and employees of Commission

102. The Provincial Auditor shall examine annually the accounts and financial transactions of the Commission. Audit

103.—(1) The Commission shall report annually to the Minister on the business of the Commission. Annual report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

GENERAL

Pension
agency

104. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act.

Transitional

105. Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the coming into force of this Act, shall be deemed to be registered upon the coming into force of this Act.

Extension
of time

106. The Commission or the Superintendent may extend any prescribed time limit before or after the expiration of the time if satisfied that there are reasonable grounds for applying for the extension, and may give such directions as the Commission or the Superintendent considers proper consequent upon the extension.

Interpre-
tation,
persons

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

1. The Superintendent.
2. Any person designated by the Superintendent or the Commission.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act.

Entry

(3) For a purpose mentioned in subsection (2), a person mentioned in subsection (1) may enter and have access to, through and over any business premises, where the person has reasonable grounds to believe books, papers, documents or things are kept that relate to a pension plan or pension fund.

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries and may require the production of any book, paper, document or thing related to a pension plan or pension fund. Examinations

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

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

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

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed. Removal of books, etc., for copying

(9) A copy of any written or recorded material found in an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution for all purposes for which the original would have been admissible. Copies

(10) If an occupier of premises, Application for warrant

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

a person mentioned in subsection (1) may apply to a justice of the peace for an inspection order under section 109.

Identification (11) A person exercising a power under this section shall provide identification at the time of entry.

Obstruction **108.**—(1) No person shall hinder or obstruct a person mentioned in subsection 107 (1) who is lawfully carrying out a duty under this Act.

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

Order by justice of the peace **109.**—(1) Where a justice of the peace is satisfied on evidence upon oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations or inquiries, and

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

or to do any of such things, for a purpose mentioned in subsection 107 (2); and

(b) that a person mentioned in subsection 107 (1),

(i) has been denied entry to the premises,

(ii) has reasonable grounds to believe that entry to the premises will be denied,

(iii) has been instructed to leave the premises,

(iv) has been obstructed, or

(v) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue an inspection order authorizing a person mentioned in subsection 107 (1) to act as mentioned in clause (a) in respect of the premises specified in the inspection order, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) An inspection order issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Execution
of order

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

Expiry of
order

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

Ex parte
application

110.—(1) Every person who contravenes this Act or the regulations is guilty of an offence.

Offence

(2) Every person who contravenes an order made under this Act is guilty of an offence.

Idem

111.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$25,000.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed is \$100,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is guilty of an offence under this Act, an officer, official, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to a fine of not more than \$25,000.

Officers,
etc.

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company.

Order for
payment

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Enforcement

- Time limit (6) No proceeding under this Act shall be commenced after five years after the date when the subject-matter of the proceeding occurred or is alleged to have occurred.
- Power to restrain **112.** Where a provision of this Act or the regulations or an order or approval of the Commission or the Superintendent under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Commission or of the administrator of a pension plan affected by the contravention.
- Service **113.**—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is to be given, served or delivered at his or her last known address.
- Deemed service (2) A notice, order or other document sent by registered mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive the notice, order or other document, or did not receive it until a later date, through absence, accident, illness or other cause beyond his or her control.
- Time for actions by administrator **114.** An administrator of a pension plan who is required to take an action under this Act or the regulations shall take the action within the prescribed period of time.
- Conflict **115.** In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over the *Pension Benefits Act, 1987*.
- 1987, c. ...
- Regulations **116.**—(1) The Lieutenant Governor in Council may make regulations,
- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
 - (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
 - (c) prescribing reports that shall be submitted to the Commission, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;

- (d) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (e) prescribing assessments for the purposes of the Guarantee Fund and prescribing the classes of employers that shall pay such assessments;
- (f) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (g) prescribing fees that shall be paid for copies of documents provided by the Commission;
- (h) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (i) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (j) prescribing the rate or the method of determining the rate at which an employer shall pay moneys due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (k) regulating or prohibiting the investment of moneys from pension funds and prescribing investments or classes of investments in which such moneys may be invested;
- (l) prescribing requirements for retirement savings contracts and life annuity contracts between members of pension plans and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made, and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (m) prescribing the rate of interest and the method of calculating interest payable under this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (n) prescribing forms and providing for their use;

- (o) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (p) prescribing requirements that shall be complied with in the administration of a pension plan;
- (q) prescribing records that shall be kept by the administrator of a pension plan and the period of time for which such records shall be retained by the administrator;
- (r) requiring the audit of pension plans or classes of pension plans and pension funds and classes of pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits;
- (s) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment after the 31st day of December, 1986;
- (t) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;
- (u) governing the receiving, holding and disbursing of pension benefits by any agency established or designated under this Act;
- (v) exempting any pension plan, class of pension plan or class of employees from the application of this Act or the regulations or from any section of this Act or the regulations.

Scope of regulations

(2) A regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of codes in regulations

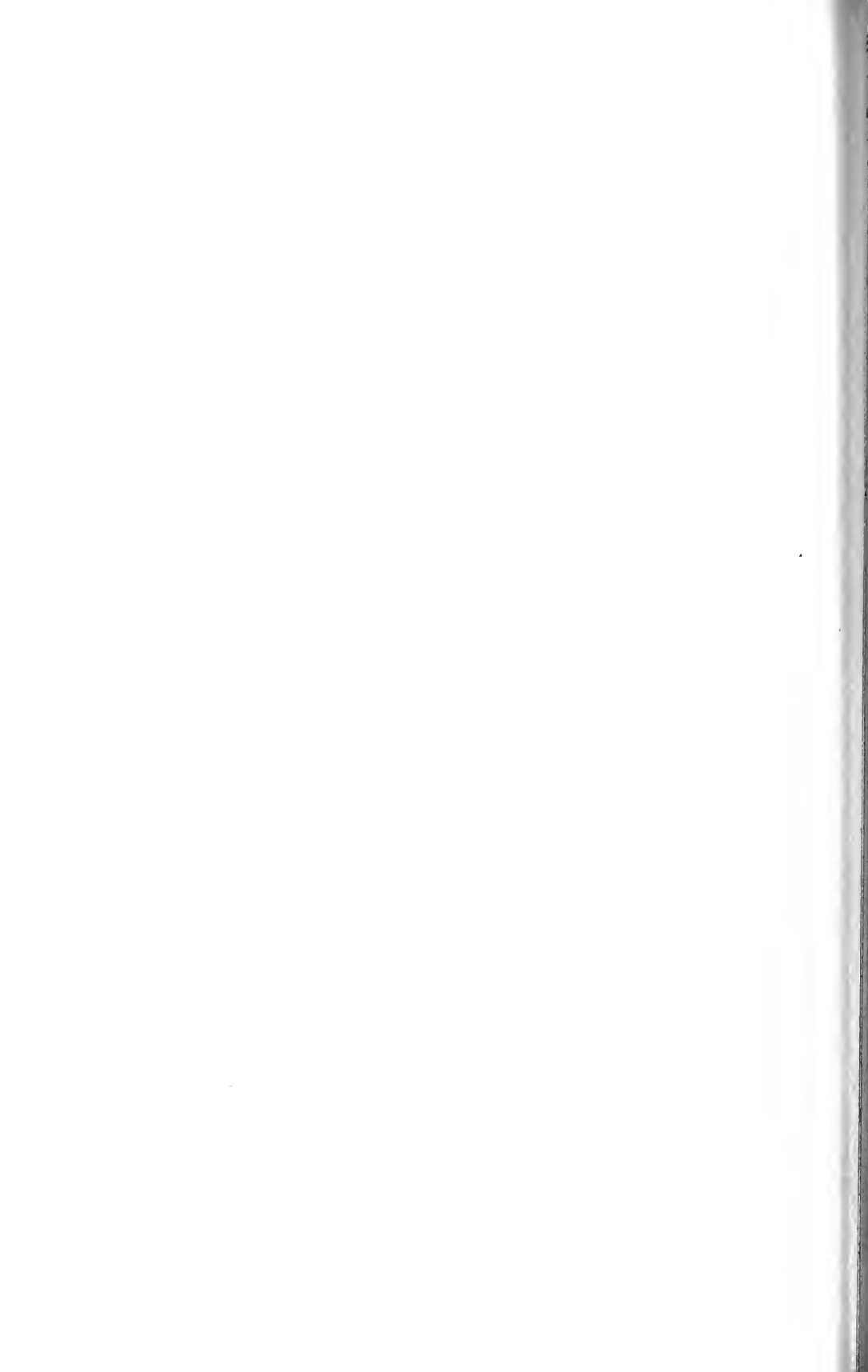
(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted.

Repeals

117. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980 and the *Pension Benefits Amendment Act, 1983*, being chapter 2, are repealed.

118. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

119. The short title of this Act is the *Pension Benefits Act*, Short title
1987.



Bill 170

An Act to revise the Pension Benefits Act

The Hon. M. Kwinter
Minister of Financial Institutions

1st Reading December 9th, 1986
2nd Reading February 10th, 1987
3rd Reading
Royal Assent

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

EXPLANATORY NOTES

The Bill revises the *Pension Benefits Act*. The changes include the following:

1. The role of the administrator of a pension plan is emphasized. (sections 8, 20)
2. Minimum contents to be set out in a pension plan are established. (section 10)
3. A statutory standard of care is set out for persons involved in the administration of pension plans and pension funds. (section 23)
4. Provision is made for the appointment of advisory committees to monitor the pension plan where there is no member representation on the body responsible for the administration of the plan. (section 25)
5. A maximum period of two years of employment for full-time employees to become eligible to join a pension plan is established. (section 32)
6. The maximum eligibility for membership in a pension plan for part-time employees is two years of employment with minimum income based on the Year's Maximum Pensionable Earnings. (section 32)
7. All employees in a class of employees, whether full-time or part-time, are eligible to become members of a pension plan that has been established for that class of employees. (section 32)
8. The maximum normal retirement date for pension plans is set as not later than one year after the attainment of sixty-five years of age. (section 36)
9. The maximum vesting period for benefits earned after December 31, 1986 is twenty-four months. (section 38)
10. Employers' contributions must provide at least 50 per cent of a pension earned after December 31, 1986. (section 40)
11. Persons who terminate employment are entitled to receive an early retirement pension at any time within ten years of attaining the normal retirement date established by the plan. (section 42)
12. Employees are given transfer options with respect to their deferred pensions upon termination of employment. The portability will be subject to limitations prescribed by regulation that relate to the solvency of the pension plan and that require the amount transferred to be treated in the same way as a pension. (section 43)
13. Where a person entitled to start receiving pension benefits has a spouse at the date payment commences, that pension must be in the form of a joint and survivor pension, unless the spouses have made a decision that it should be otherwise. (section 45)
14. The remarriage of a person who is receiving a survivor benefit under a pension plan will not disentitle that person to payment of the pension. (section 48)
15. The Bill provides for a minimum benefit to be paid to a spouse or a beneficiary where a person who is entitled to a deferred pension dies prior to receiving that pension. (section 49)
16. Where spouses have decided to split a pension by domestic agreement, or an order under the *Family Law Act, 1986* gives a spouse an interest in the other spouse's pension, the agreement or order is not effective to require payment of the pension benefit until the pension is in pay. (section 52)

17. Pension plans will not be able to discriminate on the basis of sex. (section 53)
18. Reductions based on entitlements to benefits under the *Canada Pension Plan*, *Quebec Pension Plan* or *Old Age Security Act* will be regulated. Also, new pension plans will not be able to permit the reduction of a pension based on the person's entitlement under the *Old Age Security Act*. (section 55)
19. Notice requirements related to an application for payment out of a pension plan to an employer of any surplus in the plan are set out in the Act. Criteria which the plan will have to satisfy prior to payment of surplus out of a plan to the employer will be established by regulation. The Commission is prohibited from giving its consent to an application until a prescribed date. (sections 79, 80)
20. A formal hearing procedure for proposals made by the Superintendent is established. The hearings will be by the Commission. (sections 90, 92)



Bill 170

1987

An Act to revise the Pension Benefits Act

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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:

Definitions

1. In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond

any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund;

“administrator” means the person or persons that administer the pension plan;

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

“bridging benefit” means a periodic payment provided under a pension plan to a former member of the pension plan for a temporary period of time after retirement for the purpose of supplementing the former member’s pension benefit until the former member is eligible to receive benefits under the *Old Age Security Act* (Canada) or is either eligible for or commences to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*; ▲

R.S.C. 1970,
cc. O-6, C-5

R.S.Q. 1977,
c. R-9

“certified copy” means a copy certified to be a true copy;

“collective agreement” has the same meaning as in the *Labour Relations Act*;

R.S.O. 1980,
c. 228

“Commission” means the Pension Commission of Ontario;

“commuted value” means the value calculated in the prescribed manner and as of a fixed date of a pension, a deferred pension, a pension benefit or an ancillary benefit;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

“contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan;

“defined benefit” means a pension benefit other than a defined contribution benefit;

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

“designated province” means a province or territory of Canada that is prescribed by the regulations as a province or territory in which there is in force legislation substantially similar to this Act;

“employee” means a natural person who is employed by an employer;

“employer”, in relation to a member or a former member of a pension plan, means the person or persons from whom or the organization from which the member or former member receives or received remuneration to which the pension plan is related, and “employed” and “employment” have a corresponding meaning;

“file” means file with the Superintendent;

“former member” means a person who has terminated employment or membership in a pension plan, and,

- (a) is entitled to a deferred pension payable from the pension fund,
- (b) is in receipt of a pension payable from the pension fund,
- (c) is entitled to commence receiving payment of pension benefits from the pension fund within one year after termination of employment or membership, or
- (d) is entitled to receive any other payment from the pension fund;

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act;

“insurance company” means a corporation authorized to undertake life insurance in Canada;

“joint and survivor pension” means a pension payable during the joint lives of the person entitled to the pension and his or her spouse and thereafter during the life of the survivor of them;

“member” means a member of the pension plan;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council for the purposes of this Act;

“multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who contribute or on whose behalf contributions are made to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates within the meaning of the *Business Corporations Act, 1982*; 1982, c. 4

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members;

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan;

“participating employer”, in relation to a multi-employer pension plan, means an employer required to make contributions to the multi-employer pension plan;

“pension” means a pension benefit that is in payment;

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former member, to which the member or former member will become entitled under the pension plan or to which any other person is entitled upon the death of a member or former member;


“pension committee” means a committee that is the administrator of a pension plan;

“pension fund” means the fund maintained to provide benefits under or related to the pension plan;

“pension plan” means a plan organized and administered to provide pensions for employees, but does not include,

- (a) an employees' profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act (Canada)*,

R.S.C. 1952,
c. 148

- (b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada),
- (c) a plan under which all pension benefits are provided by contributions made by members, or
- (d) any other prescribed type of plan; 

“prescribed” means prescribed by the regulations;

“qualification date” means, in respect of Ontario, the 1st day of January, 1965, and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;

“reciprocal transfer agreement” means an agreement related to two or more pension plans that provides for the transfer of moneys or credits for employment or both in respect of individual members;

“registration” means registration under this Act;

“regulations” means regulations made under this Act;

“spouse” means either of a man and woman who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act, 1986*;

1986, c. 4

“Superintendent” means Superintendent of Pensions;

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner;

“termination”, in relation to employment, includes retirement and death;

“trade union” has the same meaning as in the *Labour Relations Act*; R.S.O. 1980, c. 228

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund;

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*. R.S.C. 1970, c. C-5

APPLICATION

2. This Act binds the Crown. Crown bound

3. This Act applies to every pension plan that is provided for persons employed in Ontario. Employees in Ontario

4.—(1) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work. Place of employment

(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person’s remuneration is paid. Idem

5. The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations. Greater pension benefits

REGISTRATION AND ADMINISTRATION

6.—(1) No person shall administer a pension plan unless a certificate of registration or an acknowledgment of application for registration of the pension plan has been issued by the Superintendent. Prohibition of administration of unregistered pension plan

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan. Application of subs. (1)

7.—(1) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent. Refusal or revocation

(2) Subsection (1) does not apply to prevent administration for the purpose of wind up of a pension plan. Exception

Adminis-
trator

8.—(1) A pension plan is not eligible for registration unless it is administered by an administrator who is,

- (a) the employer or employers;
- (b) a pension committee composed of one or more representatives of,
 - (i) the employer or employers, or any person, other than the employer or employers, required to make contributions under the pension plan, and
 - (ii) members of the pension plan;
- (c) a pension committee composed of representatives of members of the pension plan;
- (d) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;



- (e) If the pension plan is a multi-employer pension plan established pursuant to a collective agreement or a trust agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one-half are representatives of members of the multi-employer pension plan, and a majority of such representatives of the members shall be Canadian citizens or landed immigrants; or



- (f) a board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan.

Additional
members

(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include a representative or representatives of persons who are receiving pensions under the pension plan.

Affiliate
1982, c. 4

(3) For the purpose of clause (1) (b), “employer” includes “affiliate” as defined in the *Business Corporations Act, 1982*, if the employer is a body corporate.

Application
for
registration

9.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is established, for registration of the pension plan.

(2) An application for registration shall be made by paying the prescribed fee to the Commission and filing,

Requirements
for
registration

- (a) a completed application in the prescribed form;
- (b) certified copies of the documents that create and support the pension plan;
- (c) certified copies of the documents that create and support the pension fund;
- (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
- (e) a certified copy of the explanations and other information provided under subsection 26 (1); and
- (f) any other prescribed documents.

(3) For the purpose of subsection (2), "document" includes "collective agreement".

Collective
agreement

10.—(1) The documents that create and support a pension plan shall set out the following information:

Contents of
pension plan

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death.
4. The normal retirement date under the pension plan.
5. The requirements for entitlement under the pension plan to any pension benefit or ancillary benefit.
6. The contributions or the method of calculating the contributions required by the pension plan.
7. The method of determining benefits payable under the pension plan.
8. The method of calculating interest to be credited to contributions under the pension plan.

9. The mechanism for payment of the cost of administration of the pension plan and pension fund.
10. The mechanism for establishing and maintaining the pension fund.
11. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.
12. The obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations.
13. The method of allocation of the assets of the pension plan on windup.
14. Particulars of any predecessor pension plan under which members of the pension plan may be entitled to pension benefits.
15. Any other prescribed information related to the pension plan or pension fund or both.

Multi-
employer
pension plan

(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement or a trust agreement shall set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan.

Gradual and
uniform
accrual of
pension
benefits

11.—(1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Variable
contributions
or pension
benefits

(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.

Variable
deferred
profit-sharing

(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

12.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment.

Application for registration of amendment

(2) An application for registration of an amendment shall be made by paying the prescribed fee to the Commission and filing,

Requirements for registration

- (a) a certified copy of the amending document;
- (b) certified copies of any other prescribed documents; and
- (c) any other prescribed information.

(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund.

Filing of changes

13.—(1) An amendment to a pension plan is not effective until an application for registration of the amendment is made in accordance with this Act and the regulations.

When amendment becomes effective

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered.

Retroactive amendment

14.—(1) An amendment to a pension plan is void if the amendment purports to reduce,

Reduction of benefits

- (a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
- (b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or
- (c) the amount or the commuted value of an ancillary benefit for which a member or former member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit.

(2) Subsection (1) does not apply in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.

Application of subs. (1)

Idem

(3) Subsection (1) does not apply in respect of a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Acknowledgment of application for registration

15. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for the registration that complies with this Act and the regulations.

Issuance of certificate of registration

16. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act.

Issuance of notice of registration

17. The Superintendent shall issue a notice of registration for each amendment to a pension plan registered under this Act.

Refusal or revocation of registration

18.—(1) The Superintendent may,

- (a) refuse to register a pension plan that does not comply with this Act and the regulations;
- (b) revoke the registration of a pension plan that does not comply with this Act and the regulations;
- (c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;
- (d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations;
- (e) revoke the registration of an amendment that does not comply with this Act and the regulations.

Application of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 90.

Effect of refusal or revocation

(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent.

Idem

(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent.

(5) Where registration of a pension plan is refused or revoked, the administrator shall wind up the pension plan in accordance with this Act and the regulations. Wind up

19.—(1) Every employer who maintains a pension plan on the date this Act comes into force shall amend the pension plan to conform with this Act and the regulations within two years after the date this Act comes into force. Conforming amendment

(2) If a pension plan is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is in effect on the date this section comes into force, the parties to the collective agreement or arbitration award shall amend the pension plan to conform to this Act and the regulations not later than the earlier of, Exception
R.S.O. 1980,
c. 228

(a) the date that is three years after the date on which this section comes into force; or



(b) the date that is two years after the date on which this section comes into force, where the collective agreement or arbitration award expires within the two-year period.

(3) The Superintendent shall not refuse to register a pension plan that is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is the subject of an application for registration submitted after this Act comes into force, if the collective agreement was entered into or the arbitration award was made before this Act comes into force and the pension plan would have been eligible for registration under the *Pension Benefits Act*. Registration

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(4) Subsection (2) applies to a pension plan referred to in subsection (3). Application of subs. (2)



20.—(1) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with this Act and the regulations. Duty of administrator



(2) Subsection (1) applies whether or not the pension plan is amended to comply with this Act and the regulations. Application of subs. (1)



(3) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with, Idem

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

Application of subs. (3) (4) Subsection (3) does not apply to enable the administrator to administer the pension plan contrary to this Act and the regulations. ▲

Idem, amendment (5) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment.

Administrator's annual information return **21.**—(1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the prescribed form and shall pay the prescribed filing fee.

Additional reports (2) The administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations.

Reciprocal transfer agreement **22.** An administrator of a pension plan shall file a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan.

Care, diligence and skill **23.**—(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Special knowledge and skill (2) The administrator of a pension plan shall use in the administration of the pension plan and in the administration and investment of the pension fund all relevant knowledge and skill that the administrator possesses or, by reason of his or her profession, business or calling, ought to possess.

Member of pension committee, etc. (3) Subsection (2) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan. ▲

(4) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit his or her interest to conflict with his or her duties and powers in respect of the pension fund. Conflict of interest

(5) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund. Employment of agent

(6) No person other than a prescribed person shall be a trustee of a pension fund. Trustee of pension fund

(7) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable. Responsibility for agent

(8) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1), (2) and (4). Employee or agent

(9) The administrator of a pension plan is not entitled to any benefit from the pension plan other than pension benefits, ancillary benefits, a refund of contributions and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan. Benefit by administrator

(10) Subsection (9) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan. Member of pension committee, etc.

(11) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan. Payment to agent

24. An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations. Information from employer

Advisory
committee

25.—(1) The members and former members of a pension plan, by the decision of a majority of them participating in a vote, may establish an advisory committee. ▲

Representa-
tion

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established under subsection (1).

Idem, former
members

(3) The former members of the pension plan are entitled to appoint one representative to the advisory committee established under subsection (1). ▲

Purposes

(4) The purposes of an advisory committee are,

- (a) to monitor the administration of the pension plan;
- (b) to make recommendations to the administrator respecting the administration of the pension plan; and
- (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.

Examination
of records

(5) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and the pension fund and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent.

Application
of subs. (1)

(6) Subsection (1) does not apply,

- (a) if the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or
- (b) in respect of a multi-employer pension plan established pursuant to a collective agreement.

Adminis-
trator
to provide
information

(7) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee.

DISCLOSURE OF INFORMATION

26.—(1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan, Information from administrator

- (a) an explanation of the provisions of the plan that apply to the person;
- (b) an explanation of the person's rights and obligations in respect of the pension plan; and
- (c) any other information prescribed by the regulations.

(2) The administrator shall provide the information mentioned in subsection (1), Time

- (a) to each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
- (b) to a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which the person is likely to become eligible;
- (c) to each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which the person becomes so employed.

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection. Information from employer

27.—(1) If the administrator of a pension plan applies for registration of an amendment to the pension plan that would result in a reduction of pension benefits accruing subsequent to the effective date of the amendment or that would otherwise adversely affect the rights or obligations of a member or former member or of any other person entitled to payment from the pension fund, the Superintendent shall require the administrator to transmit to such persons as the Superintendent may specify a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and Notice of proposed amendment

shall certify to the Superintendent the date on which the last such notice was transmitted. ▲

Registration

(2) If the Superintendent has required the administrator to transmit notices under subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but after the expiration of the forty-five day period the Superintendent may register the amendment with such changes as are requested in writing by the administrator.

Notice after registration

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and a written explanation of the amendment to each member, former member or other person entitled to payment from the pension fund who is affected by the amendment.

Order dispensing with notice

(4) The Superintendent need not require the transmittal of notices under subsection (1) or by order may dispense with the notice required by subsection (3), or both,

- (a) if the Superintendent is of the opinion that the amendment is of a technical nature or will not substantially affect the pension benefits, rights or obligations of a member or former member or will not adversely affect any person entitled to payments from the pension fund;
- (b) if the amendment has been agreed to by a trade union that represents the members; or
- (c) if the amendment is in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.

Notice to trade union

(5) Where a proposed amendment affects members or former members represented by a trade union that is a party to a collective agreement filed as a document that creates or supports a pension plan, the administrator shall transmit to the trade union the written notice mentioned in subsection (1). ▲

Annual statement of pension benefits

28. The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member's pension benefits and any ancillary benefits.

Statement of benefits

29.—(1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a

member, the administrator of the pension plan shall give to the member, or to any other person who as a result becomes entitled to a payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member.

Multi-
employer
pension plan

30.—(1) On written request, the administrator of a pension plan shall make available the prescribed documents and information in respect of the pension plan and the pension fund for inspection without charge by,

Inspection of
adminis-
trator's
documents

- (a) a member;
- (b) a former member;
- (c) the spouse of a member or former member;
- (d) any other person entitled to pension benefits under the pension plan;
- (e) an agent authorized in writing by a person mentioned in clause (a), (b), (c) or (d); or
- (f) a representative of a trade union that represents members of the pension plan.

(2) The administrator shall make the prescribed documents and information available,

Place of
inspection

- (a) for a member, at the premises of the employer where the member is employed;
- (b) for a former member, at the premises where the former member was employed; or
- (c) for a member, former member or any other person, at such other location as may be agreed upon by the administrator and the member, former member or other person making the request.

(3) The administrator shall permit the person making the inspection to make extracts from or to copy the prescribed documents and information.


Extracts
or copies

- Idem (4) On request, the administrator shall provide the person making the inspection with copies of any of the prescribed documents or information upon payment to the administrator of a reasonable fee. ▼
- Limitation (5) A member, a former member, a spouse, an other person, an agent or a trade union by a representative is entitled to make an inspection under subsection (1) not more than once in a calendar year.
- Inspection of filed documents **31.** The individuals mentioned in clauses 30 (1) (a) to (f) are entitled to inspect at the offices of the Commission during business hours of the Commission the documents that comprise the pension plan and the pension fund and such other prescribed documents as are filed in respect of the pension plan and the pension fund, and are entitled to copies of the documents upon payment of the prescribed fees. ▲

MEMBERSHIP

- Eligibility for membership **32.—**(1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.
- Full-time employment (2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment. ▼
- Part-time employment (3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer, with the lesser of,
- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings; or
 - (b) 700 hours of employment with the employer,
- in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.
- Multi-employer pension plan (4) A multi-employer pension plan may require not more than the lesser of,
- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings with one or more of the participating employers; or

- (b) 700 hours of employment with one or more participating employers,

in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan. 

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection. Approval


33. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that he or she has earnings of less than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year or is employed for fewer than 700 hours in a calendar year. Loss of membership

34.—(1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 90, by order may require the administrator to accept the employee as a member. Dispute as to member of class of employees

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class. Ground for order

35. An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment. Separate pension plan

RETIREMENT AND VESTING

 **36.—**(1) The normal retirement date under a pension plan submitted for registration after the date this Act comes into force shall not be later than one year after the attainment of sixty-five years of age. Normal retirement date

(2) Every pension plan registered or submitted for registration before the date on which this Act comes into force shall be deemed to specify a normal retirement date in respect of Transitional

pension benefits that accrue after that date that is not later than one year after attainment of sixty-five years of age, unless the pension plan specifies an earlier retirement date.

Right to
pension

(3) A member of a pension plan who continues employment and membership in the pension plan after attaining the age that is the normal retirement date under the pension plan is entitled on retirement from employment to payment of the pension benefits to which the member would have been entitled had the member retired from employment or terminated membership in the pension plan on attaining the normal retirement date and any additional pension benefits accrued under the pension plan that result from the member's employment after the normal retirement date.

Continuation
after normal
retirement
date

(4) A member of a pension plan who continues employment after attaining the age that is the normal retirement date under the pension plan and who is not receiving a pension under the pension plan is entitled to continue membership in the pension plan and has the right to continue to accrue pension benefits under the pension plan subject to any terms of the pension plan,

- (a) fixing a maximum number of years of employment or membership that can be taken into account for purposes of determining a pension benefit; or
- (b) fixing a maximum amount of the pension benefit. ▲

Deferred
pension
for past
service

37.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Qualifications

(2) The qualifications are,

- (a) that the member must have been employed by the employer, or have been a member of the pension plan, for a continuous period of at least ten years;
- (b) that the member must have reached the age of forty-five years; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan as it existed on the 31st day of December, 1986 in respect of employment before

the 1st day of January, 1987 in Ontario or in a designated province,

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions. Application of subss. (1-3)

38.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3). Deferred pension

(2) The qualifications are, Qualifications

- (a) that the member must be a member on or after the date on which this Act comes into force; ▲
- (b) that the member must be a member for a continuous period of at least twenty-four months; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

(3) The benefit is a deferred pension equal to the pension benefit provided in respect of employment in Ontario or in a designated province, Amount

- (a) under the pension plan in respect of employment by the employer after the later of the 31st day of December, 1986 or the qualification date if the qualification date is later than the 31st day of December, 1986;
- (b) under any amendment made to the pension plan after the 31st day of December, 1986; and
- (c) under any new pension plan established after the 31st day of December, 1986 for members of the pension plan.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions. Application of subss. (1-3)

Termination
by member

39.—(1) A person who is,

- (a) a member of a multi-employer pension plan;
- (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or
- (c) a member of a pension plan who has been laid off from employment by the employer,

is entitled to terminate his or her membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-four consecutive months or for such shorter period of time as is specified in the pension plan.

Effect of
termination

(2) For the purpose of determining benefits under this Act, a person mentioned in subsection (1) who terminates his or her membership in a pension plan shall be deemed to have terminated his or her employment.

Application
of
subss. (1, 2)

(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement respecting the two pension plans.

Determi-
nation of
entitlement

(4) For the purpose of determining entitlement to a deferred pension, a member of a multi-employer pension plan who terminates employment with a participating employer or an employer on whose behalf contributions are made under the pension plan shall be deemed not to have terminated employment until the member terminates membership in the pension plan.

Certification
of new
bargaining
agent
R.S.O. 1980,
c. 228

(5) Where a member of a multi-employer pension plan is represented by a trade union, which, in accordance with section 56 of the *Labour Relations Act*, ceases to represent the member, and the member joins a different pension plan, the member is entitled to terminate membership in the first plan.

Application
of subs. (5)

(6) Subsection (5) does not apply where there is a reciprocal agreement respecting the two pension plans.

BENEFITS

Value of
deferred
pension

40.—(1) If the commuted value of a former member's pension or deferred pension accrued in respect of employment before the 1st day of January, 1987 is less than the value of the contributions the former member was required to make

under the pension plan before that date plus interest credited to the contributions, the former member is entitled to have the commuted value of the pension or deferred pension increased so that the commuted value is equal to the value of the contributions plus interest.

(2) An increase in the value of the pension or deferred pension in respect of employment before the 1st day of January, 1987 that results from an amendment to the pension plan made on or after that date may be included in calculating the commuted value of the pension or deferred pension for the purposes of subsection (1). Effect of amendment

(3) A former member's contributions to a pension plan made on or after the 1st day of January, 1987 and the interest on the contributions shall not be used to provide more than 50 per cent of the commuted value of a pension or deferred pension in respect of contributory benefits accrued after that date to which the member is entitled under the pension plan on termination of membership or employment. 50 per cent rule

(4) A former member who is entitled to a pension or deferred pension on termination of employment or membership is entitled to payment from the pension fund of a lump sum payment equal to the amount by which the former member's contributions under the pension plan made on or after the 1st day of January, 1987 and the interest on the contributions exceed one-half of the commuted value of the former member's pension or deferred pension in respect of the contributory benefit accrued after that date. Entitlement to excess amount

(5) The following may be excluded in determining that part of the commuted value of a pension or deferred pension to which subsections (3) and (4) apply: Exclusions


1. Defined contribution benefits.
2. Benefits that result from additional voluntary contributions.
3. In the case of a multi-employer pension plan that permits a member who has not accrued maximum pension benefits permitted under the plan in a fiscal year of the plan to make contributions to increase the member's pension benefit to the maximum permitted for the fiscal year, benefits resulting from such contributions.
4. Any other benefits prescribed for the purposes of this subsection.

Matters that
may be
included

(6) The following may be included by the administrator of the pension plan in calculating a member's contributory benefit for the purposes of subsection (3):

1. Ancillary benefits related to employment on or after the 1st day of January, 1987.
2. Increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made on or after the 1st day of January, 1987 but that are not included in calculating commuted value under subsection (2).
3. Pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established on or after the 1st day of January, 1987.

Ancillary
benefits


41.—(1) A pension plan may provide the following ancillary benefits: 

1. Disability benefits.
2. Death benefits in excess of those provided in section 49 (pre-retirement death benefit).
3. Bridging benefits.
4. Supplemental benefits, other than bridging benefits, payable for a temporary period of time.
5. Early retirement options and benefits in excess of those provided by section 42 (early retirement option).
6. Postponed retirement options and benefits in excess of those referred to in subsection 36 (4).
7. Any prescribed ancillary benefit.

Use in
calculating
pension
benefit

(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit.

Consent of
employer

 (3) For the purposes of subsection (2) and clause 14 (1) (c), where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit and a member

or former member has met all other eligibility requirements, the employer shall be deemed to have given the consent to the member or former member. ▲

42.—(1) A former member is entitled to elect to receive an early retirement pension under the pension plan if he or she, ▼

Early retirement option

- (a) terminated employment on or after the date on which this Act comes into force; ▲
- (b) is entitled to a deferred pension under this Act; and
- (c) is within ten years of attaining the normal retirement date.

(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment with the employer is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to receive an early retirement pension under the pension plan. Idem

(3) The commuted value of a member's early retirement pension must be not less than the commuted value of the member's pension benefit under the pension plan. Commuted value


(4) The commuted value of a former member's early retirement pension must be not less than the commuted value of the former member's deferred pension benefit under the pension plan. Idem, former member

(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten year period mentioned in subsection (1) or (2). Payment

(6) An election under subsection (1) or (2) shall be made in writing, signed by the member or former member and delivered to the administrator of the pension plan. Election

43.—(1) A former member of a pension plan who, on or after the date on which this Act comes into force, terminates employment or ceases to be a member of the pension plan and who is entitled to a deferred pension is entitled to require the administrator to pay an amount equal to the commuted value of the deferred pension, ▼

Transfer

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or
- (c) for the purchase for the former member of a life annuity that will not commence before the earliest date on which the former member would have been entitled to receive payment of pension benefits under the pension plan. 

Limitation

(2) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.

Application of subs. (1)

(3) Subsection (1) does not apply to a former member whose employment is terminated and who is entitled to immediate payment of a pension benefit under the pension plan or under section 42, unless the pension plan provides such an entitlement.

Direction



(4) A former member may exercise his or her entitlement under subsection (1) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Superintendent.

Compliance with direction

(5) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction.

Terms of arrangement or deferred annuity

(6) The administrator shall not make payment,

- (a) under clause (1) (b) unless the retirement savings arrangement meets the requirements prescribed by the regulations; or 
- (b) under clause (1) (c) unless the contract to purchase the deferred life annuity meets the prescribed requirements. 

Approval

(7) If a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent.

(8) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Terms and conditions

(9) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 90 (hearing), may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. Order for repayment

(10) Subject to section 90 (hearing and appeal), an order for payment under subsection (9), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(11) The administrator is discharged on making the payment or transfer in accordance with the direction of the former member if the payment or transfer complies with this Act and the regulations. Discharge of administrator

44.—(1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company. Purchase of pension

(2) The authority of the administrator under subsection (1) is subject to the entitlement of a member under section 43 and to the limitations prescribed in relation to transfers of funds from pension funds. Limitations

(3) If a purchase under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent. Approval by Superintendent

(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Idem

(5) If a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent, subject to section 90 (hearing), by order may require any person to whom payment under Order for repayment

subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.

Enforcement

(6) Subject to section 90 (hearing and appeal), an order for payment under subsection (5), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Joint and survivor pension benefits

45.—(1) Every pension paid under a pension plan to a former member who has a spouse on the date that the payment of the first instalment of the pension is due shall be a joint and survivor pension.

Commuted value

(2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the former member.

Amount of survivor benefit

(3) The amount of the pension payable to the survivor of the former member and the spouse of the former member shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and his or her spouse.

Application of subss. (1-3)

➡ (4) Subsections (1) to (3) do not apply,

(a) in respect of a pension benefit if payment of the pension has commenced before the date on which this Act comes into force; or ▲

(b) in respect of a former member who is living separate and apart from his or her spouse on the date that payment of the first instalment of the pension is due.

Deferred life annuity

➡ (5) Where,

(a) prior to the date on which this Act comes into force, a deferred life annuity has been purchased from an insurance company for a person entitled to a deferred pension under the *Pension Benefits Act*;

(b) payments have not commenced under the annuity on the date on which this Act comes into force; and

(c) the recipient of the payments has a spouse on the date payments commence,

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the annuity shall be paid as a joint and survivor pension in accordance with the requirements of this section and the insurance company shall make payments accordingly.

(6) For the purposes of subsection (5), the insurance company shall be deemed to be the administrator under sections 46 and 47. ▲

Application of ss.46, 47

46.—(1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit.

Information for payment

(2) The person entitled to the payment shall provide the information to the administrator.

Person to provide information

(3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator. ▼

Discharge of administrator

47.—(1) The persons entitled to a joint and survivor pension benefit may waive the entitlement to receive payment of pension benefits in the form of a joint and survivor pension by delivering to the administrator of the pension plan or, in the case of a deferred life annuity, to the insurance company a written waiver in the prescribed form or a certified copy of a domestic contract, as defined in Part IV of the *Family Law Act, 1986*, containing the waiver. ▲

Waiver of joint and survivor pension benefit

1986, c. 4

(2) The waiver is not effective unless the written direction or certified copy is delivered to the administrator within the period of twelve months immediately preceding the commencement of payment of the pension benefit.

Time

(3) Persons who have delivered a waiver under subsection (1) may jointly cancel the waiver by written and signed notice delivered to the administrator before commencement of payment of the pension benefit.

Cancellation of waiver

48.—(1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of remarriage after the death of the former member.

Remarriage of spouse

Application
of subs. (1)

(2) Subsection (1) applies in respect of pensions that are being paid on the 1st day of January, 1987 or that commence to be paid after the 31st day of December, 1986.

Pre-
retirement
death benefit

49.—(1) If a member or former member of a pension plan who is entitled under the pension plan to a deferred pension described in section 38 (entitlement to deferred pension) dies before commencement of payment of the deferred pension, the person who is the spouse of the member or former member on the date of death is entitled,

- (a) to receive a lump sum payment equal to the commuted value of the deferred pension; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the deferred pension.

Idem

(2) If a member of a pension plan continues in employment after the normal retirement date under the pension plan and dies before commencement of payment of pension benefits referred to in section 38, the person who is the spouse of the member or former member on the date of death is entitled,

- (a) to receive a lump sum payment equal to the commuted value of the pension benefit; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the pension benefit.

Application
of
subs. (1, 2)

(3) Subsections (1) and (2) do not apply where the member or former member and his or her spouse are living separate and apart on the date of the death of the member or former member.

Election

(4) A spouse who has an entitlement under subsection (1) or (2) shall elect within the prescribed period of time to receive payment under clause (a) or (b) of the subsection and if the spouse does not make an election, the spouse shall be deemed to have elected to receive an immediate pension.

Calculation
of benefit

(5) For the purposes of this section, the deferred pension or pension benefits to which a member is entitled if the member dies while employed shall be calculated as if the member's employment were terminated immediately before the member's death.

Designated
beneficiary

(6) A member or former member of a pension plan may designate a beneficiary and the beneficiary is entitled to be

paid an amount equal to the commuted value of the deferred pension mentioned in subsection (1) or (2) if,

- (a) the member or former member does not have a spouse on the date of death; or
- (b) the member or former member is living separate and apart from his or her spouse on that date.

(7) The personal representative of the member or former member is entitled to receive payment of the commuted value mentioned in subsection (1) or (2) as the property of the member or former member, if the member or former member has not designated a beneficiary under subsection (6) and, Estate entitlement

- (a) does not have a spouse on the date of the member or former member's death; or
- (b) is living separate and apart from his or her spouse on that date.

(8) If the pension plan provides for payment of pension benefits to or for a dependent child or dependent children of the member or former member upon the death of the member or former member, the commuted value of the payments may be deducted from the entitlement of a beneficiary designated under subsection (6) or of a personal representative under subsection (7). Dependent children

(9) It is the responsibility of the person entitled to the payment to provide to the administrator the information needed to make the payment. Information

(10) In the absence of actual notice to the contrary, the administrator is discharged on making payment in accordance with the information provided by the person. Discharge of administrator

(11) A pension plan may provide for reduction of an amount to which a person is entitled under this section to offset any part of a prescribed additional benefit that is attributable to an amount paid by an employer, subject to the following: Offset

1. The reduction shall be calculated in the prescribed manner.
2. The reduction shall not exceed the prescribed limits.

- Discharge of entitlement (12) Payment in accordance with this section replaces the entitlement of a member or former member in respect of a deferred pension mentioned in section 38.
- Order or domestic contract (13) An entitlement to a benefit under this section is subject to any right to or interest in the benefit set out in a domestic contract or an order referred to in section 52 (payment on marriage breakdown).
- Waiver (14) A member and his or her spouse may waive the spouse's entitlement under subsection (1) or (2) in the prescribed form and, for the purpose, subsections (6) and (7) apply as if the member does not have a spouse on the date of the member's death.
- Definition R.S.O. 1980, c. 143 (15) In this section, "personal representative" has the same meaning as in the *Estates Administration Act*. ▲
- Variation of payment to disabled person **50.** A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to shorten considerably the life expectancy of the member or former member.
- Commutated value **51.—**(1) A pension plan may provide for payment to a former member of the commuted value of a benefit if the annual benefit payable at the normal retirement date is not more than 2 per cent of the Year's Maximum Pensionable Earnings in the year that the former member terminated employment.
- Idem (2) A pension plan registered before the date on which this Act comes into force may provide that upon termination of employment a person entitled to a deferred pension under section 37 (deferred pension) is entitled to payment of an amount not greater than 25 per cent of the commuted value of the deferred pension.
- Payment on marriage breakdown 1986, c. 4 **52.—**(1) A domestic contract as defined in Part IV of the *Family Law Act, 1986* or an order under Part I of that Act is not effective to require payment of a pension benefit before the earlier of,
- (a) the date on which payment of the pension benefit commences; or
 - (b) the normal retirement date of the relevant member or former member.



(2) A domestic contract or an order mentioned in subsection (1) is not effective to cause a party to the domestic contract or order to become entitled to more than 50 per cent of the pension benefits, calculated in the prescribed manner, accrued by a member or former member during the period when the party and the member or former member were spouses.

Maximum percentage



(3) If payment of a pension or a deferred pension is divided between spouses by a domestic contract or an order mentioned in subsection (1), the administrator is discharged on making payment in accordance with the domestic contract or order.

Discharge of administrator

(4) If a domestic contract or an order mentioned in subsection (1) affects a pension, the administrator of the pension plan shall revalue the pension in the prescribed manner.

Revaluation of joint and survivor pension



(5) A spouse on whose behalf a certified copy of a domestic contract or order mentioned in subsection (1) is given to the administrator of a pension plan has the same entitlement, on termination of employment by the member or former member, to any option available in respect of the spouse's interest in the pension benefits as the member or former member named in the domestic contract or order has in respect of his or her pension benefits.

Transfer



53.—(1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in,

Discrimination on basis of sex

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) determining the pension benefits or the commuted value of pension benefits that a member, former member or other beneficiary is or may become entitled to;
- (c) the provision of eligibility conditions for membership; and
- (d) the provision of ancillary benefits.

(2) In order to comply with subsection (1), the administrator may,

Administration

- (a) use annuity factors that do not differentiate as to sex;

- (b) provide for employer contributions that vary according to the sex of the employee; or
- (c) use any prescribed method of calculation or valuation.

Application

(3) This section applies in respect of contributions, benefits and conditions in relation to,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; and
- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

Inflation protection

54.—(1) Pension benefits, pensions or deferred pensions shall be adjusted in accordance with the established formula or formulas and in the prescribed manner to provide inflation-related increases.

Idem

(2) Any formula or formulas for any inflation related adjustments to pension benefits, pensions or deferred pensions shall be established only by amendment to this Act.

C.P.P./
Q.P.P.
offsets
R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

55.—(1) The reduction of a pension benefit that may be required by a pension plan in relation to payments under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula applied in the prescribed manner.

Idem

(2) The amount of the reduction of a member's pension benefit required under the pension plan in relation to payments mentioned in subsection (1) shall not be increased by reason of an increase in the payments after the date on which the member's employment is terminated.

Reduction re
*Old Age
Security Act*
(Canada)

(3) A pension plan for registration of which application is made on or after the date on which this Act comes into force shall not permit the reduction of a pension benefit based on a person's entitlement under the *Old Age Security Act* (Canada).

(4) Subsection (3) does not apply to a pension plan that is a successor of a pension plan registered under the *Pension Benefits Act* that permitted such a reduction. Application of subs. (3)
R.S.O. 1980,
c. 373

(5) A pension plan shall not permit reduction of a pension benefit based on a person's entitlement under the *Old Age Security Act* (Canada) in respect of a benefit accrued on or after the 1st day of January, 1987. Idem
R.S.C. 1970,
c. O-6

(6) Where a pension plan provides for the reduction of a member's or former member's bridging benefit by reason that the member or former member receives or is eligible to receive retirement benefits before attaining sixty-five years of age under the *Canada Pension Plan* or the *Quebec Pension Plan*, the reduction may only be made in the prescribed circumstances. Bridging benefit

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9

(7) Where a pension plan provides for the variation of a pension benefit by reason of benefits payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada), the variation shall be applied in the prescribed manner. Variations based on other benefits
R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

CONTRIBUTIONS

56.—(1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations. Funding

(2) An employer required to make contributions under a pension plan, or a person required to make contributions under a pension plan on behalf of an employer, shall make the contributions in the prescribed manner and in accordance with the prescribed requirements for funding, Payment

(a) to the pension fund; or

(b) if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan.

57.—(1) The administrator of a pension plan or, if there is an agent of the administrator responsible for receiving contributions under the pension plan, the administrator and the agent shall give written notice to the Superintendent of a contribution that is not paid when due. Notice to Superintendent

(2) The administrator and the agent shall give the notice to the Superintendent within sixty days after the date on which When notice required

the administrator or the agent first became aware of the failure to pay the contribution.

Multi-employer pension plan

(3) The administrator and the agent of a multi-employer pension plan shall give the notice to the Superintendent within the prescribed period of time after the date on which the administrator or the agent first became aware of the failure to pay the contribution.

Trust property

58.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund.

Money withheld

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee.

Accrued contributions

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund.

Wind up

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations.

Lien and charge

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4).

Application of subss. (1, 3, 4)

(6) Subsections (1), (3) and (4) apply whether or not the moneys have been kept separate and apart from other money or property of the employer.

Moneys to be paid to insurance company

(7) Subsections (1) to (6) apply with necessary modifications in respect of moneys to be paid to an insurance company that guarantees pension benefits under a pension plan.

Accrual

59.—(1) Money that an employer is required to pay into a pension fund accrues on a daily basis.

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. Interest

60. The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. Collection of contributions

61. The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount. Bond

62. An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the plan a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required to make and any other obligations of the employer under the pension plan. Statement of employer's obligation

63. Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by the regulations. Investment of pension fund

LOCKING IN

64.—(1) No member or former member is entitled to a refund from a pension fund of contributions made in respect of employment in Ontario or a designated province on or after the qualification date. Refunds

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon to a member or former member or a payment under subsection 40 (4) (entitlement to excess amount). Idem

(3) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 37 (deferred pension for past service) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment before the 1st day of January, 1987. Refund related to past employment

Refund related to post-reform employment

(4) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 38 (deferred pension) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment after the 31st day of December, 1986.

Application of subs. (1)

(5) Subsection (1) does not apply,

- (a) to prevent the commutation of a pension benefit under subsection 51 (1) (commuted value);
- (b) to prevent a payment under subsection 51 (2); or
- (c) to such other circumstances as are prescribed.

Application of subs. (3, 4)

(6) Subsections (3) and (4) do not apply in respect of a member of a multi-employer pension plan unless the member terminates his or her membership in the multi-employer pension plan.

Refund with consent

(7) Notwithstanding subsection (1), on application by the administrator, contributions may be refunded to a member or a former member with the consent of the Commission.

Consent of Commission

(8) On application by the administrator of a pension plan, the Commission may consent to a refund under subsection (7) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions.

Shorter qualification periods

65.—(1) A pension plan may provide for shorter qualification periods for entitlement to a deferred pension than those set out in sections 37 (deferred pension for past service) and 38 (deferred pension).

Refund

(2) A pension plan that provides for qualification periods for a deferred pension that are shorter than the periods set out in section 37 or 38 may permit a refund of contributions to a person who terminates employment after becoming entitled to a deferred pension under the pension plan before the completion of the qualification period referred to in section 37 or 38.

Void transactions

66.—(1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 43 (transfer), 44 (purchase of pension), clause 49 (1) (b) (pre-retirement death benefit) or subsection 74 (2) (transfer rights on wind up) is void. Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in moneys payable under a pension plan or moneys payable as a result of a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) (transfer rights on wind up) by an order under the *Family Law Act, 1986* or by a domestic contract as defined in Part IV of that Act. Exemption for order or separation agreement
1986, c. 4

67.—(1) Money payable under a pension plan is exempt from execution, seizure or attachment. Exemption from execution, seizure or attachment

(2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity under section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment. Idem

(3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment. Idem

(4) Notwithstanding subsection (1), payments under a pension or that result from a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) are subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half the money payable. Order for support or maintenance

(5) Subsection (4) applies to orders for support or maintenance enforceable in Ontario whether made before or after the coming into force of this Act. Application of subs. (4)

68.—(1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer under section 43, 44, 49 or subsection 74 (2) to which a person is entitled is not capable of being commuted or surrendered during the person's life. Commutation or surrender

(2) A transaction that purports to commute or surrender such a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement is void. Void transaction

Application
of
subss. (1, 2)

(3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 50 (variation of payment to disabled person) or to a commutation of a benefit under section 51 (commuted value).

WINDING UP

Winding up

69.—(1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part.

Notice

(2) The administrator shall give written notice of proposal to wind up the pension plan to,

- (a) the Superintendent;
- (b) each member of the pension plan;
- (c) each former member of the pension plan;
- (d) each trade union that represents members of the pension plan;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund.

Notice
of partial
wind up

(3) In the case of a proposal to wind up only part of a pension plan, the administrator is not required to give written notice of the proposal to members, former members or other persons entitled to payment from the pension fund if they will not be affected by the proposed partial wind up.

Information

(4) The notice of proposal to wind up shall contain the information prescribed by the regulations.

Effective
date

(5) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members.

Order by
Superin-
tendent

(6) The Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change.

Winding up
order by
Superin-
tendent

70.—(1) The Superintendent by order may require the wind up of a pension plan in whole or in part if,

- (a) there is a cessation or suspension of employer contributions to the pension fund;
- (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);
- (d) a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (e) all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (f) all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person;
- (g) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in whole or in part;
- (h) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
- (i) any other prescribed event or prescribed circumstance occurs.

R.S.C. 1970,
c. B-3

(2) In an order under subsection (1), the Superintendent shall specify the effective date of the wind up, the persons or class or classes of persons to whom the administrator shall give notice of the order and the information that shall be given in the notice.

Date and
notice

Wind up
report

71.—(1) The administrator of a pension plan that is to be wound up in whole or in part shall file a wind up report that sets out,

- (a) the assets and liabilities of the pension plan;
- (b) the benefits to be provided under the pension plan to members, former members and other persons;
- (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
- (d) such other information as is prescribed.

Payments
out of
pension
fund after
notice of
proposal to
wind up

(2) No payment shall be made out of the pension fund in respect of which notice of proposal to wind up has been given until the Superintendent has approved the wind up report.

Application
of subs. (2)

(3) Subsection (2) does not apply to prevent continuation of payment of a pension or any other benefit the payment of which commenced before the giving of the notice of proposal to wind up the pension plan or to prevent any other payment that is prescribed or that is approved by the Superintendent.

Approval

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent.

Refusal to
approve

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan.

Rights and
benefits
on partial
wind up

(6) On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.

Appointment
of
administrator
to wind up

72.—(1) If a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Superintendent may act as or may appoint an administrator.

(2) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent may be paid out of the pension fund.

Costs of administration on winding up

73.—(1) On the wind up of a pension plan in whole or in part, the administrator shall give to each person entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out the person's entitlement under the pension plan, the options available to the person and any other prescribed information.

Notice of entitlements

(2) If a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 75 (1) (b), and the administrator of the pension plan shall make payment in accordance with the election or deemed election.

Election

74.—(1) For the purpose of determining the amounts of pension benefits and any other benefits and entitlements on the winding up of a pension plan, in whole or in part,

Determination of entitlements

- (a) the employment of each member of the pension plan affected by the winding up shall be deemed to have been terminated on the effective date of the wind up;
- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights under section 75.

(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 43 (1) (transfer) of a member who terminates employment and, for the purpose, subsection 43 (3) does not apply.

Transfer rights on wind up

75.—(1) A member in Ontario of a pension plan whose combination of age plus years of continuous employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan in whole or in part, has the right to receive,

Combination of age and years of employment

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;
- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
 - (i) the normal retirement date under the pension plan, or
 - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or
- (c) a reduced pension in the amount payable under the terms of the pension plan beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.

Part year

(2) In determining the combination of age plus employment or membership, one-twelfth credit shall be given for each month of age and for each month of continuous employment or membership at the effective date of the wind up.

Member for ten years

(3) Bridging benefits offered under the pension plan to which a member would be entitled if the pension plan were not wound up and if the membership of the member were continued shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

Prorated bridging benefit

(4) For the purposes of subsection (3), if the bridging benefit offered under the pension plan is not related to periods of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to payment of pension benefits and a full bridging benefit under the pension plan if the pension plan were not wound up.

Notice of termination of employment

(5) Membership in a pension plan that is wound up in whole or in part includes the period of notice of termination

of employment required under Part XII of the *Employment Standards Act*. R.S.O. 1980, c. 137

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment. Application of subs. (5)

(7) For the purposes of this section, where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit, the employer shall be deemed to have given the consent. Consent of employer

(8) This section and sections 74 (determination of entitlements), 85, 86 and 87 (guaranteed benefits) apply in respect of the wind up, in whole or in part, of a pension plan where the effective date of the wind up is on or after the 1st day of April, 1987. Application of section

(9) A person affected by a wind up who elects to receive a benefit under subsection (1) is not entitled to payment of any refund of contributions or interest under subsection 64 (3) or (4) (refunds). Refund

76.—(1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund, Liability of employer on wind up

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Commission declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits accrued with respect to employment in Ontario vested under the pension plan, and
 - (iii) the value of benefits accrued with respect to employment in Ontario resulting from the application of subsection 40 (3) (50 per cent rule) and section 75,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario.

Payment

(2) The employer shall pay the moneys due under subsection (1) in the prescribed manner and at the prescribed times.

Pension fund continues subject to Act and regulations

77. The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed.

Insufficient pension fund

78. Subject to the application of the Guarantee Fund, where the moneys in a pension fund are not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

SURPLUS

Payment out of pension fund to employer

79.—(1) No money may be paid out of a pension fund to the employer without the prior consent of the Commission.

Application for payment

(2) An employer who applies to the Commission for consent to payment of money that is surplus to the employer out of a pension fund shall transmit notice of the application, containing the prescribed information, to,

- (a) each member and each former member of the pension plan to which the pension fund relates;
- (b) each trade union that represents members of the pension plan;
- (c) any other individual who is receiving payments out of the pension fund; and
- (d) the advisory committee established in respect of the pension fund.

Representations

(3) A person to whom notice has been transmitted under subsection (2) may make written representations to the Commission with respect to the application within thirty days after receiving the notice.

Return of excess amount

(4) The Commission may consent to payment out of a pension fund to an employer of an amount not in excess of the amount of an overpayment by the employer into the pension fund or of an amount paid by the employer that should have been paid out of the pension fund, but shall not consent

unless the application is made in the same fiscal year of the pension fund as the fiscal year in which the overpayment or the payment occurred. ▲

80.—(1) The Commission shall not consent to payment of money that is surplus to the employer out of a continuing pension plan unless, Continuing pension plan

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Commission that the applicant is otherwise entitled to withdraw the surplus;
- (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the employer's current service costs is retained in the pension fund as surplus;
- (d) where the members are not required to make contributions under the pension plan, the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,
 is retained in the pension fund as surplus;
- (e) where members are required to make contributions under the pension plan, all surplus attributable to contributions paid by members and the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,

are retained in the pension fund as surplus; and

- (f) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Where no provision in pension plan

▼
(2) A pension plan that does not provide for the withdrawal of surplus moneys while the pension plan continues in existence shall be construed to prohibit the withdrawal of surplus moneys accrued after the 31st day of December, 1986.

Application of subs. (2)

(3) Subsection (2) comes into force on the 1st day of January, 1989. ▲

Wind up

(4) The Commission shall not consent to an application in respect of a pension plan that is being wound up in whole or in part unless,

(a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;

(b) the pension plan provides for payment of surplus to the employer on the wind up of the pension plan;

▼
(c) provision has been made for the payment of all liabilities of the pension plan as calculated for purposes of termination of the pension plan; and ▲

(d) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Idem

▼
(5) A pension plan that does not provide for payment of surplus moneys on the wind up of the pension plan shall be construed to require that surplus moneys accrued after the 31st day of December, 1986 shall be distributed proportionately on the wind up of the pension plan among members, former members and any other persons entitled to payments under the pension plan on the date of the wind up.

Application of subs. (5)

(6) Subsection (5) comes into force on the 1st day of January, 1989. ▲

Decision

(7) The Commission shall transmit its decision, together with written reasons therefor, to the applicant and to each person who made written representations to the Commission in accordance with subsection 79 (3).

(8) The Commission may attach such conditions and limitations to its consent under this section as the Commission considers necessary in the circumstances.

Conditions and limitations

(9) The *Statutory Powers Procedure Act* does not apply in respect of a decision made by the Commission under this section.

Application of R.S.O. 1980, c. 484

(10) The Commission shall not consent to payment of money from surplus to the employer out of a continuing pension plan until such date as may be prescribed.

Interim prohibition to giving consent

SALES, TRANSFERS AND NEW PLANS

81.—(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan who, in conjunction with the sale, assignment or disposition becomes an employee of the successor employer and becomes a member of a pension plan provided by the successor employer,

Continuation of benefits under successor employer

- (a) continues to be entitled to the benefits provided under the employer's pension plan in respect of employment in Ontario or a designated province to the effective date of the sale, assignment or disposition without further accrual;
- (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and
- (c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

(2) Clause (1) (a) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer's pension plan and the pension plan of the successor employer shall be deemed to be a continuation of the employer's plan with respect to any benefits or assets transferred.

Exception

(3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.

Employment deemed not terminated

Transfer
on sale

(4) Where a transaction described in subsection (1) occurs and the successor employer assumes responsibility in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the successor employer without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Consent by
Superin-
tendent

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the employer's pension plan or that does not meet the prescribed requirements and qualifications.

Order for
return

(6) The Superintendent by order may require the transferee to return to the pension fund, with interest, assets transferred without the prior consent required by subsection (4).

Enforcement


(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.


Multi-
employer
pension
plan
R.S.O. 1980,
c. 288


(8) Where a group of members of a multi-employer pension plan are represented by a trade union and in accordance with section 56 of the *Labour Relations Act* the trade union ceases to represent the members and they become represented by a different trade union certified as their bargaining agent and become members of a different pension plan, the administrator of the first pension plan shall transfer to the administrator of the new pension plan all the assets and liabilities respecting those members who have elected under section 43 to transfer their entitlement to the new pension plan and the administrator of the new pension plan shall accept the transfer as assets and liabilities of the new plan.

Idem

(9) Where a group of members of a multi-employer pension plan are represented by a trade union and in accordance with section 56 of the *Labour Relations Act* the trade union ceases to represent the members and they become represented by a different trade union certified as their bargaining agent and become members of a different pension plan and the members are not entitled to make an election under section 43, the administrator of the old pension plan shall transfer to the administrator of the new pension plan all assets and liabilities of the pension plan attributable to such members determined as prescribed and the administrator of the new pension plan shall accept them as assets and liabilities, determined as prescribed, of the new plan.

(10) Subsections (8) and (9) do not apply where there is a reciprocal agreement respecting the pension plans.  Application of subs. (8), (9)

(11) In this section, "successor employer" means the person who acquires the business or the assets of the employer.  Definition

82.—(1) Where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the original pension plan shall be deemed not to be wound up and the new pension plan shall be deemed to be a continuation of the original pension plan.  Adoption of new pension plan

(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan. Continuation of benefits

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan. Application of subs. (2)

(4) No transfer of assets shall be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent or contrary to the prescribed terms and conditions. Transfer of assets

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications. Consent by Superintendent

(6) The Superintendent by order may require the transferee to return to the pension fund assets, with interest calculated in the prescribed manner, transferred without the prior consent of the Superintendent or transferred contrary to a prescribed term or condition. Order

(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(8) No transfer of assets shall be made from one pension fund to another pension fund in circumstances where subsections (1) to (7) do not apply or where section 43 or 81 does not apply, without the prior consent of the Superintendent or contrary to the prescribed terms and conditions and for the Fund to fund

purpose, subsections (5) to (7) apply with necessary modifications. ▲

PENSION BENEFITS GUARANTEE FUND

Guarantee
Fund
continued

83.—(1) The Pension Benefits Guarantee Fund is continued.

Adminis-
tration

(2) The Commission is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund.

Expenses

(3) The Commission may charge to the Guarantee Fund the reasonable expenses incurred by the Commission in the administration of the Guarantee Fund.

Loans to
Guarantee
Fund

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs.

Guarantee
Fund
declaration

84.—(1) The Commission, subject to section 91 (notice and representations), shall declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan.

Conditions
precedent

- (2) The Commission shall make the declaration if,
- (a) the pension plan is registered under this Act or is registered in a designated province to provide for the reciprocal application of this Act;
 - (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
 - (c) the pension plan is wound up in whole or in part; and
 - (d) the Commission is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied.

Guaranteed
benefits

85.—(1) Where the Guarantee Fund is declared by the Commission to apply to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of employment in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member's employment or membership was terminated before the date on which this Act comes into force and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 37 or 38 (deferred pension), or both, if the member's or former member's employment or membership was terminated on or after the date on which this Act comes into force, equal to 20 per cent if the combination of the member's or former member's age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.
4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.
5. The minimum value of all required contributions made to the pension plan by a member or former member in respect of employment in Ontario plus interest.
6. That part of a deferred pension guaranteed under this subsection to which a former spouse of a member or of a former member is entitled under a domestic contract or an order under the *Family Law Act, 1986*.
7. Any pension to which a survivor of a former member is entitled under subsection 49 (1) (death before commencement of payment).

1986, c. 4

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits.

Bridging
benefits

Part year

▼ (3) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of continuous employment or membership as of the date of termination of employment.

Definition

(4) For the purpose of this section, "pension benefits" includes any benefits or options elected under section 75 (combination of age and years of employment). ▲

Payments not guaranteed

86. The following are not guaranteed by the Guarantee Fund:

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.
2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.
6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans.

Lien for payment out of Guarantee Fund

87.—(1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Commission has a lien and charge on the assets of the employer or employers who provided the pension plan.

Amount of lien

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations.

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Commission may so register notice of the lien and charge.

Real property

(4) The Commission is subrogated to the rights of the administrator of a pension plan in respect of which the Commission authorizes payment from the Guarantee Fund in satisfaction of a pension, deferred pension, pension benefit or contribution guaranteed under section 85 (guaranteed benefits).

Subrogation

ORDERS

88.—(1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 90 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

Order by Superintendent

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

Condition precedent to order

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.

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

Time

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

Reasons for order

89.—(1) The Commission, in the circumstances mentioned in subsection (2) and subject to section 91 (notice and representations), by order may require an administrator to take the action specified in subsection (3).

Order by Commission

(2) The Commission may make an order under this section where the Commission is of the opinion,

Grounds for order

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan do not accord with generally accepted actuarial principles; or
- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan.

Contents
of order

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

HEARING AND APPEAL

Notice of
proposal
to refuse
or revoke

90.—(1) Where the Superintendent proposes to refuse to register a pension plan or an amendment to a pension plan or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator of the plan.

Notice of
proposal to
make order

(2) Where the Superintendent proposes to make an order under,

- (a) subsection 43 (9) (repayment of money transferred out of pension fund);
- (b) subsection 44 (5) (repayment of money paid to purchase pension, deferred pension or ancillary benefit);
- (c) subsection 81 (6) (transfer of assets to pension fund of successor employer);
- (d) subsection 82 (6) (transfer of assets to new pension fund); or
- (e) section 88 (administration of pension plan or contravention of Act or regulation),

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any

other person to whom the Superintendent proposes to direct the order.

(3) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator, and the Superintendent shall serve or require the administrator to serve a copy of the notice and the written reasons on the employee.

Notice of proposal re membership

(4) Where the Superintendent proposes to refuse to give an approval or consent or proposes to attach terms and conditions to an approval or consent under this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval or consent.

Notice of proposal to attach terms and conditions to approval or consent

(5) Where the Superintendent proposes to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and the written reasons on such other persons or classes of persons or both as the Superintendent specifies in the notice to the administrator.

Notice of proposed wind up order

(6) A notice under subsection (1), (2), (3), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Commission if the person delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

Notice requiring hearing

(7) Where the person on whom the notice is served does not require a hearing in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice.

Power of Superintendent

(8) Where the person requires a hearing by the Commission in accordance with subsection (6), the Commission shall appoint a time for and hold the hearing.

Hearing

(9) At or after the hearing, the Commission by order may direct the Superintendent to carry out or to refrain from carrying out the proposal and to take such action as the Commission considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the

Power of Commission

Commission may substitute its opinion for that of the Superintendent.

Conditions (10) The Commission may attach such terms and conditions to its order or to the registration as the Commission considers proper to give effect to the purposes of this Act.

Parties (11) The Superintendent, the person who requires a hearing and such other persons as the Commission specifies are parties to the proceeding before the Commission under this section.

Opportunity to show compliance (12) A party to a hearing shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the registration of the pension plan.

Examination of documentary evidence (13) A party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Release of documentary evidence (14) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the matter in issue has been finally determined.

Notice of proposal by Commission **91.—**(1) Where the Commission proposes to consider,

- (a) making a declaration that the Guarantee Fund applies to a pension plan;
- (b) making an order requiring the administrator of a pension plan to take specific action in relation to a report in respect of the pension plan; or
- (c) refusing to consent to a refund of contributions under section 64 (refunds),

the Commission shall serve notice of the proposal together with written reasons therefor on the administrator of the pension plan.

Additional notices (2) The administrator shall transmit copies of the Commission's notice to such other persons or classes of persons or both as the Commission specifies in the notice to the administrator.

(3) A notice by the Commission under subsection (1) shall state that the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Commission within thirty days after service of the notice under that subsection.

Representations

(4) An individual who is entitled to make representations to the Commission under subsection (3) shall be afforded an opportunity, during the period of time when representations may be made, to examine any written or documentary evidence that will be produced or any report the contents of which will be considered by the Commission when the Commission considers its proposal.

Examination of documentary evidence

(5) The Commission shall transmit a copy of its decision, together with written reasons therefor, to the administrator, the employer and every other person who made representations to the Commission in accordance with subsection (3).

Notice of decision

(6) The *Statutory Powers Procedure Act* does not apply in respect of a declaration, refusal or order mentioned in subsection (1) by the Commission.

Application of R.S.O. 1980, c. 484

92.—(1) A party to a proceeding before the Commission under section 80, 90 or 91 may appeal to the Divisional Court from the decision or order of the Commission.

Appeal to court

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the prescribed fee, the Commission shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from.

Certified copy of record

93.—(1) Three members of the Commission constitute a quorum for the purposes of a proceeding before the Commission under section 90, and decisions in such proceedings require the vote of a majority of the members of the Commission present at the hearing in the proceeding.

Quorum and votes

(2) The Commission may sit in two or more panels simultaneously for the purposes of such proceedings.

Panels

(3) The head of the Commission shall assign the members of the Commission to its panels and may change an assignment at any time.

Assignment

(4) Where a proceeding is commenced before the Commission and the term of office on the Commission of a person sitting for the hearing expires or is terminated, other than for

Expiry of member's term of office

cause, before the proceeding has been disposed of but after evidence has been heard, the person shall be deemed to remain a member of the Commission for the purpose of completing the proceeding in the same manner as if his or her term of office had not expired or been terminated.

PENSION COMMISSION

- Commission continued **94.**—(1) The Pension Commission of Ontario is continued.
- Composition (2) The Commission shall be composed of not fewer than five and not more than nine members appointed by the Lieutenant Governor in Council.
- Head and deputy head (3) The Lieutenant Governor in Council shall appoint the head and the deputy head of the Commission from among the members of the Commission.
- Term of office (4) The members of the Commission shall be appointed for terms of not more than three years and may be reappointed for further terms of not more than three years.
- Authority of deputy head (5) If the head of the Commission is absent or if there is a vacancy in the office of head of the Commission, the deputy head shall act as and have all the powers of the head of the Commission.
- Acting head (6) If both the head of the Commission and the deputy head are absent or if there are vacancies in the offices of head of the Commission and deputy head, the member of the Commission designated by the members of the Commission shall act as and have the powers of the head of the Commission.
- Vacancies (7) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission or in the offices of head or deputy head of the Commission.
- Quorum (8) A majority of the members of the Commission, including the head or deputy head of the Commission, constitutes a quorum.
- Employees
R.S.O. 1980,
c. 418 (9) Such employees as are necessary to carry out the business of the Commission shall be appointed under the *Public Service Act*.
- Salary and expenses (10) The members of the Commission shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council.

95.—(1) The office of Superintendent of Pensions is continued.

Superintendent

(2) The Superintendent shall be appointed by the Commission.

Appointment

(3) The Superintendent is the chief administrative officer of the Commission.

Chief administrative officer

(4) The Superintendent shall exercise the powers and perform the duties that are vested in or imposed upon the Superintendent by this Act, the regulations and the Commission.

Powers and duties

(5) The Superintendent may delegate in writing any power or duty of the Superintendent under this Act to any employee of the Commission, subject to the approval of the Commission and subject to any limitation or condition set out in the delegation.

Delegation of powers and duties

96.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

Reciprocal agreements

- (a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;
- (b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and
- (c) delegate to a pension supervisory authority or the government of a designated province such functions and powers under this Act as the Commission may determine and the Commission may accept similar delegations of functions and powers from a pension supervisory authority or the government of a designated province.

(2) Where a pension plan required to be registered in Ontario is registered in a designated jurisdiction, the Commission by order may limit the application of this Act and the regulations to the pension plan and authorize the application of the law of the designated jurisdiction in respect of the pension plan.

Applicable law

Duty of
Commission

97. It is the duty of the Commission,

- (a) to administer this Act and the regulations;
- (b) to promote the establishment, extension and improvement of pension plans throughout Ontario;
- (c) to advise the Minister in respect of the business of the Commission; and
- (d) to make recommendations to the Minister in respect of pension plans.

Research

98.—(1) It is a function of the Commission to conduct surveys and research programs and to compile statistical information related to pensions and pension plans.

Provision of
information

(2) The Commission may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time.

Confidenti-
ality

(3) The Commission shall use the information only for the purpose of compiling the statistical information.

Information

99.—(1) The Superintendent may require an employer, an administrator or any other person to supply to the Commission or the Superintendent such information in such form as is acceptable to the Superintendent and within such time limits as specified for the purpose of ascertaining whether or not this Act and the regulations are being complied with.

Idem

(2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Superintendent or other person designated by the Superintendent.

Appraisal

(3) The Superintendent may require the administrator to secure an appraisal of any or all of the assets of the pension fund by one or more independent valuers or the Superintendent may obtain the appraisal at the expense of the administrator.

Time

(4) The administrator shall deliver the appraisal to the Superintendent within the period of time specified by the Superintendent in the requirement or within such other period of time as the Superintendent may specify. ▲

100. Every person entrusted by the Commission with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*.

Security

R.S.O. 1980,
c. 415

101. No member of the Commission or of the staff of the Commission is personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority.

Liability of
members and
employees of
Commission

102. The Provincial Auditor shall examine annually the accounts and financial transactions of the Commission.

Audit

103.—(1) The Commission shall report annually to the Minister on the business of the Commission.

Annual
report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

GENERAL

104. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act.

Pension
agency

105. Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the coming into force of this Act, shall be deemed to be registered upon the coming into force of this Act.

Transitional

106. The Commission or the Superintendent may extend any time limit under this Act or the regulations before or after the expiration of the time if satisfied that there are reasonable grounds for applying for the extension, and may give such directions as the Commission or the Superintendent considers proper consequent upon the extension.

Extension
of time

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

Interpre-
tation,
persons

1. The Superintendent.

2. Any person designated by the Superintendent or the Commission.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act.

Entry

(3) For a purpose mentioned in subsection (2), a person mentioned in subsection (1) may enter and have access to, through and over any business premises, where the person has reasonable grounds to believe books, papers, documents or things are kept that relate to a pension plan or pension fund.

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries and may require the production of any book, paper, document or thing related to a pension plan or pension fund.

Samples or
extracts

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

Reasonable
times

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

Private
residence

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

Removal of
books, etc.,
for copying

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed.

(9) A copy of any written or recorded material found in an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution for all purposes for which the original would have been admissible.

Copies

(10) If an occupier of premises,

Application
for warrant

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

a person mentioned in subsection (1) may apply to a justice of the peace for an inspection order under section 109.

(11) A person exercising a power under this section shall provide identification at the time of entry.

Identification

108.—(1) No person shall hinder or obstruct a person mentioned in subsection 107 (1) who is lawfully carrying out a duty under this Act.

Obstruction

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

Private
residence

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

Order by
justice of
the peace

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

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

or to do any of such things, for a purpose mentioned in subsection 107 (2); and

(b) that a person mentioned in subsection 107 (1),

(i) has been denied entry to the premises,

(ii) has reasonable grounds to believe that entry to the premises will be denied,

(iii) has been instructed to leave the premises,

(iv) has been obstructed, or

(v) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue an inspection order authorizing a person mentioned in subsection 107 (1) to act as mentioned in clause (a) in respect of the premises specified in the inspection order, by force if necessary, together with such police officer or officers as they call upon to assist them.

Execution
of order

(2) An inspection order issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Expiry of
order

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

Ex parte
application

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

Offence

110.—(1) Every person who contravenes this Act or the regulations is guilty of an offence.

Idem

(2) Every person who contravenes an order made under this Act is guilty of an offence.

111.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$25,000. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed is \$100,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is guilty of an offence under this Act, an officer, official, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to a fine of not more than \$25,000. Officers,
etc.

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company. Order for
payment

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(6) No proceeding under this Act shall be commenced after five years after the date when the subject-matter of the proceeding occurred or is alleged to have occurred. Time limit

112. Where a provision of this Act or the regulations or an order or approval of the Commission or the Superintendent under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Commission or of the administrator of a pension plan affected by the contravention. Power to
restrain

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

(2) A notice, order or other document sent by first class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive the notice, order or other document, or did not receive it until a later Deemed
service

date, through absence, accident, illness or other cause beyond his or her control.

General
notice

(3) Where the Superintendent is of the opinion that because the persons who are to be given any notice or document under this Act or the regulations are so numerous or for any other reason it is not reasonable to give the notice or document to all or any of the persons individually, the Superintendent may authorize the giving of the notice or document or reasonable notice of the contents of the notice or document to the persons by public advertisement or otherwise as the Superintendent may direct and the date on which the notice or document or the reasonable notice of the contents is first published or otherwise given as directed shall be deemed to be the date on which the notice or document is given.

Time for
actions by
administrator

114. An administrator of a pension plan who is required to take an action under this Act or the regulations shall take the action within the prescribed period of time.

Conflict

1987, c. ...

115. In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over the *Pension Benefits Act, 1987*.

Regulations

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

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
- (c) prescribing reports that shall be submitted to the Commission, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;
- (d) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (e) prescribing assessments for the purposes of the Guarantee Fund and prescribing the classes of employers that shall pay such assessments;
- (f) prescribing procedures that shall govern the appointments of members of pension committees and advisory committees;

- (g) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (h) prescribing fees that shall be paid for copies of documents provided by the Commission;
- (i) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (j) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (k) prescribing the rate or the method of determining the rate at which an employer shall pay moneys due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (l) regulating or prohibiting the investment of moneys from pension funds and prescribing investments or classes of investments in which such moneys may be invested;
- (m) prescribing requirements for retirement savings contracts and life annuity contracts between members of pension plans and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made, and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (n) prescribing the rate of interest and the method of calculating interest payable under this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (o) prescribing forms and providing for their use;
- (p) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (q) prescribing requirements that shall be complied with in the administration of a pension plan;

(r) prescribing records that shall be kept by the administrator of a pension plan and the period of time for which such records shall be retained by the administrator;

(s) requiring the audit of pension plans or classes of pension plans and pension funds and classes of pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits;



(t) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment before the date on which this Act comes into force or that is attributable to employment after the date on which this Act comes into force;

(u) prohibiting or regulating the reduction of bridging benefits or the variation of pension benefits by reference to benefits payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada);

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

(v) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;

(w) governing the receiving, holding and disbursing of pension benefits by any agency established or designated under this Act;



(x) exempting pension plans, pension funds, employees, administrators or other persons from the application of this Act or the regulations or from any section of this Act or the regulations.

Scope of regulations

(2) A regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of codes in regulations

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted.



Terms, conditions, qualifications, requirements

(4) Any provision of a regulation may be subject to such terms, conditions, qualifications or requirements as are specified in the regulation.

117. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980 and the *Pension Benefits Amendment Act, 1983*, being chapter 2, are repealed. Repeals

118. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

119. The short title of this Act is the *Pension Benefits Act, 1987*. Short title







Bill 170

*(Chapter 35
Statutes of Ontario, 1987)*

An Act to revise the Pension Benefits Act

The Hon. M. Kwinter
Minister of Financial Institutions

<i>1st Reading</i>	December 9th, 1986
<i>2nd Reading</i>	February 10th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill 170

1987

An Act to revise the Pension Benefits Act

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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:

Definitions

1. In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond

any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund;

“administrator” means the person or persons that administer the pension plan;

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

“bridging benefit” means a periodic payment provided under a pension plan to a former member of the pension plan for a temporary period of time after retirement for the purpose of supplementing the former member’s pension benefit until the former member is eligible to receive benefits under the *Old Age Security Act* (Canada) or is either eligible for or commences to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*;

R.S.C. 1970,
cc. O-6, C-5

R.S.Q. 1977,
c. R-9

“certified copy” means a copy certified to be a true copy;

“collective agreement” has the same meaning as in the *Labour Relations Act*;

R.S.O. 1980,
c. 228

“Commission” means the Pension Commission of Ontario;

“commuted value” means the value calculated in the prescribed manner and as of a fixed date of a pension, a deferred pension, a pension benefit or an ancillary benefit;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

“contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan;

“defined benefit” means a pension benefit other than a defined contribution benefit;

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

“designated province” means a province or territory of Canada that is prescribed by the regulations as a province or territory in which there is in force legislation substantially similar to this Act;

“employee” means a natural person who is employed by an employer;

“employer”, in relation to a member or a former member of a pension plan, means the person or persons from whom or the organization from which the member or former member receives or received remuneration to which the pension plan is related, and “employed” and “employment” have a corresponding meaning;

“file” means file with the Superintendent;

“former member” means a person who has terminated employment or membership in a pension plan, and,

- (a) is entitled to a deferred pension payable from the pension fund,
- (b) is in receipt of a pension payable from the pension fund,
- (c) is entitled to commence receiving payment of pension benefits from the pension fund within one year after termination of employment or membership, or
- (d) is entitled to receive any other payment from the pension fund;

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act;

“insurance company” means a corporation authorized to undertake life insurance in Canada;

“joint and survivor pension” means a pension payable during the joint lives of the person entitled to the pension and his or her spouse and thereafter during the life of the survivor of them;

“member” means a member of the pension plan;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council for the purposes of this Act;

“multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who contribute or on whose behalf contributions are made to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates within the meaning of the *Business Corporations Act, 1982*; 1982, c. 4

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members;

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan;

“participating employer”, in relation to a multi-employer pension plan, means an employer required to make contributions to the multi-employer pension plan;

“pension” means a pension benefit that is in payment;

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former member, to which the member or former member will become entitled under the pension plan or to which any other person is entitled upon the death of a member or former member;

“pension committee” means a committee that is the administrator of a pension plan;

“pension fund” means the fund maintained to provide benefits under or related to the pension plan;

“pension plan” means a plan organized and administered to provide pensions for employees, but does not include,

- (a) an employees’ profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act (Canada)*,

R.S.C. 1952,
c. 148

- (b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada),
- (c) a plan under which all pension benefits are provided by contributions made by members, or
- (d) any other prescribed type of plan;

“prescribed” means prescribed by the regulations;

“qualification date” means, in respect of Ontario, the 1st day of January, 1965, and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;

“reciprocal transfer agreement” means an agreement related to two or more pension plans that provides for the transfer of moneys or credits for employment or both in respect of individual members;

“registration” means registration under this Act;

“regulations” means regulations made under this Act;

“spouse” means either of a man and woman who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act, 1986*;

1986, c. 4

“Superintendent” means Superintendent of Pensions;

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner;

“termination”, in relation to employment, includes retirement and death;

“trade union” has the same meaning as in the *Labour Relations Act*; R.S.O. 1980, c. 228

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund;

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*. R.S.C. 1970, c. C-5

APPLICATION

2. This Act binds the Crown. Crown bound

3. This Act applies to every pension plan that is provided for persons employed in Ontario. Employees in Ontario

4.—(1) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work. Place of employment

(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person’s remuneration is paid. Idem

5. The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations. Greater pension benefits

REGISTRATION AND ADMINISTRATION

6.—(1) No person shall administer a pension plan unless a certificate of registration or an acknowledgment of application for registration of the pension plan has been issued by the Superintendent. Prohibition of administration of unregistered pension plan

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan. Application of subs. (1)

7.—(1) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent. Refusal or revocation

(2) Subsection (1) does not apply to prevent administration for the purpose of wind up of a pension plan. Exception

Adminis-
trator

8.—(1) A pension plan is not eligible for registration unless it is administered by an administrator who is,

- (a) the employer or employers;
- (b) a pension committee composed of one or more representatives of,
 - (i) the employer or employers, or any person, other than the employer or employers, required to make contributions under the pension plan, and
 - (ii) members of the pension plan;
- (c) a pension committee composed of representatives of members of the pension plan;
- (d) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;
- (e) If the pension plan is a multi-employer pension plan established pursuant to a collective agreement or a trust agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one-half are representatives of members of the multi-employer pension plan, and a majority of such representatives of the members shall be Canadian citizens or landed immigrants; or
- (f) a board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan.

Additional
members

(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include a representative or representatives of persons who are receiving pensions under the pension plan.

Affiliate
1982, c. 4

(3) For the purpose of clause (1) (b), “employer” includes “affiliate” as defined in the *Business Corporations Act, 1982*, if the employer is a body corporate.

Application
for
registration

9.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is established, for registration of the pension plan.

(2) An application for registration shall be made by paying the prescribed fee to the Commission and filing,

Requirements
for
registration

- (a) a completed application in the prescribed form;
- (b) certified copies of the documents that create and support the pension plan;
- (c) certified copies of the documents that create and support the pension fund;
- (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
- (e) a certified copy of the explanations and other information provided under subsection 26 (1); and
- (f) any other prescribed documents.

(3) For the purpose of subsection (2), “document” includes “collective agreement”.

Collective
agreement

10.—(1) The documents that create and support a pension plan shall set out the following information:

Contents of
pension plan

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death.
4. The normal retirement date under the pension plan.
5. The requirements for entitlement under the pension plan to any pension benefit or ancillary benefit.
6. The contributions or the method of calculating the contributions required by the pension plan.
7. The method of determining benefits payable under the pension plan.
8. The method of calculating interest to be credited to contributions under the pension plan.

9. The mechanism for payment of the cost of administration of the pension plan and pension fund.
10. The mechanism for establishing and maintaining the pension fund.
11. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.
12. The obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations.
13. The method of allocation of the assets of the pension plan on windup.
14. Particulars of any predecessor pension plan under which members of the pension plan may be entitled to pension benefits.
15. Any other prescribed information related to the pension plan or pension fund or both.

Multi-
employer
pension plan

(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement or a trust agreement shall set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan.

Gradual and
uniform
accrual of
pension
benefits

11.—(1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Variable
contributions
or pension
benefits

(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.

Variable
deferred
profit-sharing

(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

12.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment.

Application for registration of amendment

(2) An application for registration of an amendment shall be made by paying the prescribed fee to the Commission and filing,

Requirements for registration

- (a) a certified copy of the amending document;
- (b) certified copies of any other prescribed documents; and
- (c) any other prescribed information.

(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund.

Filing of changes

13.—(1) An amendment to a pension plan is not effective until an application for registration of the amendment is made in accordance with this Act and the regulations.

When amendment becomes effective

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered.

Retroactive amendment

14.—(1) An amendment to a pension plan is void if the amendment purports to reduce,

Reduction of benefits

- (a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
- (b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or
- (c) the amount or the commuted value of an ancillary benefit for which a member or former member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit.

(2) Subsection (1) does not apply in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.

Application of subs. (1)

Idem

(3) Subsection (1) does not apply in respect of a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Acknowledgment of application for registration

15. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for the registration that complies with this Act and the regulations.

Issuance of certificate of registration

16. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act.

Issuance of notice of registration

17. The Superintendent shall issue a notice of registration for each amendment to a pension plan registered under this Act.

Refusal or revocation of registration

18.—(1) The Superintendent may,

- (a) refuse to register a pension plan that does not comply with this Act and the regulations;
- (b) revoke the registration of a pension plan that does not comply with this Act and the regulations;
- (c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;
- (d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations;
- (e) revoke the registration of an amendment that does not comply with this Act and the regulations.

Application of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 90.

Effect of refusal or revocation

(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent.

Idem

(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent.

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

Application of subs. (3)

(4) Subsection (3) does not apply to enable the administrator to administer the pension plan contrary to this Act and the regulations.

Idem, amendment

(5) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment.

Administrator's annual information return

21.—(1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the prescribed form and shall pay the prescribed filing fee.

Additional reports

(2) The administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations.

Reciprocal transfer agreement

22. An administrator of a pension plan shall file a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan.

Care, diligence and skill

23.—(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Special knowledge and skill

(2) The administrator of a pension plan shall use in the administration of the pension plan and in the administration and investment of the pension fund all relevant knowledge and skill that the administrator possesses or, by reason of his or her profession, business or calling, ought to possess.

Member of pension committee, etc.

(3) Subsection (2) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan.

(4) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit his or her interest to conflict with his or her duties and powers in respect of the pension fund.

Conflict of interest

(5) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund.

Employment of agent

(6) No person other than a prescribed person shall be a trustee of a pension fund.

Trustee of pension fund

(7) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Responsibility for agent

(8) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1), (2) and (4).

Employee or agent

(9) The administrator of a pension plan is not entitled to any benefit from the pension plan other than pension benefits, ancillary benefits, a refund of contributions and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan.

Benefit by administrator

(10) Subsection (9) applies with necessary modifications to a member of a pension committee or board of trustees that is the administrator of a pension plan and to a member of a board, agency or commission made responsible by an Act of the Legislature for the administration of a pension plan.

Member of pension committee, etc.

(11) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.

Payment to agent

24. An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations.

Information from employer

Advisory
committee

25.—(1) The members and former members of a pension plan, by the decision of a majority of them participating in a vote, may establish an advisory committee.

Representa-
tion

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established under subsection (1).

Idem, former
members

(3) The former members of the pension plan are entitled to appoint one representative to the advisory committee established under subsection (1).

Purposes

(4) The purposes of an advisory committee are,

- (a) to monitor the administration of the pension plan;
- (b) to make recommendations to the administrator respecting the administration of the pension plan; and
- (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.

Examination
of records

(5) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and the pension fund and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent.

Application
of subs. (1)

(6) Subsection (1) does not apply,

- (a) if the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or
- (b) in respect of a multi-employer pension plan established pursuant to a collective agreement.

Adminis-
trator
to provide
information

(7) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee.

DISCLOSURE OF INFORMATION

26.—(1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan, Information from administrator

- (a) an explanation of the provisions of the plan that apply to the person;
- (b) an explanation of the person's rights and obligations in respect of the pension plan; and
- (c) any other information prescribed by the regulations.

(2) The administrator shall provide the information mentioned in subsection (1), Time

- (a) to each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
- (b) to a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which the person is likely to become eligible;
- (c) to each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which the person becomes so employed.

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection. Information from employer

27.—(1) If the administrator of a pension plan applies for registration of an amendment to the pension plan that would result in a reduction of pension benefits accruing subsequent to the effective date of the amendment or that would otherwise adversely affect the rights or obligations of a member or former member or of any other person entitled to payment from the pension fund, the Superintendent shall require the administrator to transmit to such persons as the Superintendent may specify a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and Notice of proposed amendment

shall certify to the Superintendent the date on which the last such notice was transmitted.

Registration

(2) If the Superintendent has required the administrator to transmit notices under subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but after the expiration of the forty-five day period the Superintendent may register the amendment with such changes as are requested in writing by the administrator.

Notice after registration

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and a written explanation of the amendment to each member, former member or other person entitled to payment from the pension fund who is affected by the amendment.

Order dispensing with notice

(4) The Superintendent need not require the transmittal of notices under subsection (1) or by order may dispense with the notice required by subsection (3), or both,

- (a) if the Superintendent is of the opinion that the amendment is of a technical nature or will not substantially affect the pension benefits, rights or obligations of a member or former member or will not adversely affect any person entitled to payments from the pension fund;
- (b) if the amendment has been agreed to by a trade union that represents the members; or
- (c) if the amendment is in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement.

Notice to trade union

(5) Where a proposed amendment affects members or former members represented by a trade union that is a party to a collective agreement filed as a document that creates or supports a pension plan, the administrator shall transmit to the trade union the written notice mentioned in subsection (1).

Annual statement of pension benefits

28. The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member's pension benefits and any ancillary benefits.

Statement of benefits

29.—(1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a

member, the administrator of the pension plan shall give to the member, or to any other person who as a result becomes entitled to a payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member. Multi-employer pension plan

30.—(1) On written request, the administrator of a pension plan shall make available the prescribed documents and information in respect of the pension plan and the pension fund for inspection without charge by, Inspection of administrator's documents

- (a) a member;
- (b) a former member;
- (c) the spouse of a member or former member;
- (d) any other person entitled to pension benefits under the pension plan;
- (e) an agent authorized in writing by a person mentioned in clause (a), (b), (c) or (d); or
- (f) a representative of a trade union that represents members of the pension plan.

(2) The administrator shall make the prescribed documents and information available, Place of inspection

- (a) for a member, at the premises of the employer where the member is employed;
- (b) for a former member, at the premises where the former member was employed; or
- (c) for a member, former member or any other person, at such other location as may be agreed upon by the administrator and the member, former member or other person making the request.

(3) The administrator shall permit the person making the inspection to make extracts from or to copy the prescribed documents and information. Extracts or copies

- Idem (4) On request, the administrator shall provide the person making the inspection with copies of any of the prescribed documents or information upon payment to the administrator of a reasonable fee.
- Limitation (5) A member, a former member, a spouse, an other person, an agent or a trade union by a representative is entitled to make an inspection under subsection (1) not more than once in a calendar year.
- Inspection of filed documents **31.** The individuals mentioned in clauses 30 (1) (a) to (f) are entitled to inspect at the offices of the Commission during business hours of the Commission the documents that comprise the pension plan and the pension fund and such other prescribed documents as are filed in respect of the pension plan and the pension fund, and are entitled to copies of the documents upon payment of the prescribed fees.

MEMBERSHIP

- Eligibility for membership **32.—**(1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.
- Full-time employment (2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.
- Part-time employment (3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer, with the lesser of,
- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings; or
 - (b) 700 hours of employment with the employer,
- in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.
- Multi-employer pension plan (4) A multi-employer pension plan may require not more than the lesser of,
- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings with one or more of the participating employers; or

- (b) 700 hours of employment with one or more participating employers,

in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection. Approval

33. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that he or she has earnings of less than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year or is employed for fewer than 700 hours in a calendar year. Loss of membership

34.—(1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 90, by order may require the administrator to accept the employee as a member. Dispute as to member of class of employees

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class. Ground for order

35. An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment. Separate pension plan

RETIREMENT AND VESTING

36.—(1) The normal retirement date under a pension plan submitted for registration after the date this Act comes into force shall not be later than one year after the attainment of sixty-five years of age. Normal retirement date

(2) Every pension plan registered or submitted for registration before the date on which this Act comes into force shall be deemed to specify a normal retirement date in respect of Transitional

pension benefits that accrue after that date that is not later than one year after attainment of sixty-five years of age, unless the pension plan specifies an earlier retirement date.

Right to
pension

(3) A member of a pension plan who continues employment and membership in the pension plan after attaining the age that is the normal retirement date under the pension plan is entitled on retirement from employment to payment of the pension benefits to which the member would have been entitled had the member retired from employment or terminated membership in the pension plan on attaining the normal retirement date and any additional pension benefits accrued under the pension plan that result from the member's employment after the normal retirement date.

Continuation
after normal
retirement
date

(4) A member of a pension plan who continues employment after attaining the age that is the normal retirement date under the pension plan and who is not receiving a pension under the pension plan is entitled to continue membership in the pension plan and has the right to continue to accrue pension benefits under the pension plan subject to any terms of the pension plan,

- (a) fixing a maximum number of years of employment or membership that can be taken into account for purposes of determining a pension benefit; or
- (b) fixing a maximum amount of the pension benefit.

Deferred
pension
for past
service

37.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Qualifications

- (2) The qualifications are,
- (a) that the member must have been employed by the employer, or have been a member of the pension plan, for a continuous period of at least ten years;
 - (b) that the member must have reached the age of forty-five years; and
 - (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan as it existed on the 31st day of December, 1986 in respect of employment before

the 1st day of January, 1987 in Ontario or in a designated province,

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions. Application of subss. (1-3)

38.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3). Deferred pension

(2) The qualifications are, Qualifications

- (a) that the member must be a member on or after the date on which this Act comes into force;
- (b) that the member must be a member for a continuous period of at least twenty-four months; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

(3) The benefit is a deferred pension equal to the pension benefit provided in respect of employment in Ontario or in a designated province, Amount

- (a) under the pension plan in respect of employment by the employer after the later of the 31st day of December, 1986 or the qualification date if the qualification date is later than the 31st day of December, 1986;
- (b) under any amendment made to the pension plan after the 31st day of December, 1986; and
- (c) under any new pension plan established after the 31st day of December, 1986 for members of the pension plan.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions. Application of subss. (1-3)

Termination
by member

39.—(1) A person who is,

- (a) a member of a multi-employer pension plan;
- (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or
- (c) a member of a pension plan who has been laid off from employment by the employer,

is entitled to terminate his or her membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-four consecutive months or for such shorter period of time as is specified in the pension plan.

Effect of
termination

(2) For the purpose of determining benefits under this Act, a person mentioned in subsection (1) who terminates his or her membership in a pension plan shall be deemed to have terminated his or her employment.

Application
of
subss. (1, 2)

(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement respecting the two pension plans.

Determi-
nation of
entitlement

(4) For the purpose of determining entitlement to a deferred pension, a member of a multi-employer pension plan who terminates employment with a participating employer or an employer on whose behalf contributions are made under the pension plan shall be deemed not to have terminated employment until the member terminates membership in the pension plan.

Certification
of new
bargaining
agent
R.S.O. 1980,
c. 228

(5) Where a member of a multi-employer pension plan is represented by a trade union, which, in accordance with section 56 of the *Labour Relations Act*, ceases to represent the member, and the member joins a different pension plan, the member is entitled to terminate membership in the first plan.

Application
of subs. (5)

(6) Subsection (5) does not apply where there is a reciprocal agreement respecting the two pension plans.

BENEFITS

Value of
deferred
pension

40.—(1) If the commuted value of a former member's pension or deferred pension accrued in respect of employment before the 1st day of January, 1987 is less than the value of the contributions the former member was required to make

under the pension plan before that date plus interest credited to the contributions, the former member is entitled to have the commuted value of the pension or deferred pension increased so that the commuted value is equal to the value of the contributions plus interest.

(2) An increase in the value of the pension or deferred pension in respect of employment before the 1st day of January, 1987 that results from an amendment to the pension plan made on or after that date may be included in calculating the commuted value of the pension or deferred pension for the purposes of subsection (1). Effect of amendment

(3) A former member's contributions to a pension plan made on or after the 1st day of January, 1987 and the interest on the contributions shall not be used to provide more than 50 per cent of the commuted value of a pension or deferred pension in respect of contributory benefits accrued after that date to which the member is entitled under the pension plan on termination of membership or employment. 50 per cent rule

(4) A former member who is entitled to a pension or deferred pension on termination of employment or membership is entitled to payment from the pension fund of a lump sum payment equal to the amount by which the former member's contributions under the pension plan made on or after the 1st day of January, 1987 and the interest on the contributions exceed one-half of the commuted value of the former member's pension or deferred pension in respect of the contributory benefit accrued after that date. Entitlement to excess amount

(5) The following may be excluded in determining that part of the commuted value of a pension or deferred pension to which subsections (3) and (4) apply: Exclusions

1. Defined contribution benefits.
2. Benefits that result from additional voluntary contributions.
3. In the case of a multi-employer pension plan that permits a member who has not accrued maximum pension benefits permitted under the plan in a fiscal year of the plan to make contributions to increase the member's pension benefit to the maximum permitted for the fiscal year, benefits resulting from such contributions.
4. Any other benefits prescribed for the purposes of this subsection.

Matters that
may be
included

(6) The following may be included by the administrator of the pension plan in calculating a member's contributory benefit for the purposes of subsection (3):

1. Ancillary benefits related to employment on or after the 1st day of January, 1987.
2. Increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made on or after the 1st day of January, 1987 but that are not included in calculating commuted value under subsection (2).
3. Pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established on or after the 1st day of January, 1987.

Ancillary
benefits

41.—(1) A pension plan may provide the following ancillary benefits:

1. Disability benefits.
2. Death benefits in excess of those provided in section 49 (pre-retirement death benefit).
3. Bridging benefits.
4. Supplemental benefits, other than bridging benefits, payable for a temporary period of time.
5. Early retirement options and benefits in excess of those provided by section 42 (early retirement option).
6. Postponed retirement options and benefits in excess of those referred to in subsection 36 (4).
7. Any prescribed ancillary benefit.

Use in
calculating
pension
benefit

(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit.

Consent of
employer

(3) For the purposes of subsection (2) and clause 14 (1) (c), where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit and a member

or former member has met all other eligibility requirements, the employer shall be deemed to have given the consent to the member or former member.

42.—(1) A former member is entitled to elect to receive an early retirement pension under the pension plan if he or she, Early retirement option

- (a) terminated employment on or after the date on which this Act comes into force;
- (b) is entitled to a deferred pension under this Act; and
- (c) is within ten years of attaining the normal retirement date.

(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment with the employer is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to receive an early retirement pension under the pension plan. Idem

(3) The commuted value of a member's early retirement pension must be not less than the commuted value of the member's pension benefit under the pension plan. Commuted value

(4) The commuted value of a former member's early retirement pension must be not less than the commuted value of the former member's deferred pension benefit under the pension plan. Idem, former member

(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten year period mentioned in subsection (1) or (2). Payment

(6) An election under subsection (1) or (2) shall be made in writing, signed by the member or former member and delivered to the administrator of the pension plan. Election

43.—(1) A former member of a pension plan who, on or after the date on which this Act comes into force, terminates employment or ceases to be a member of the pension plan and who is entitled to a deferred pension is entitled to require the administrator to pay an amount equal to the commuted value of the deferred pension, Transfer

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or
- (c) for the purchase for the former member of a life annuity that will not commence before the earliest date on which the former member would have been entitled to receive payment of pension benefits under the pension plan.

Limitation

(2) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.

Application of subs. (1)

(3) Subsection (1) does not apply to a former member whose employment is terminated and who is entitled to immediate payment of a pension benefit under the pension plan or under section 42, unless the pension plan provides such an entitlement.

Direction

(4) A former member may exercise his or her entitlement under subsection (1) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Superintendent.

Compliance with direction

(5) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction.

Terms of arrangement or deferred annuity

(6) The administrator shall not make payment,

- (a) under clause (1) (b) unless the retirement savings arrangement meets the requirements prescribed by the regulations; or
- (b) under clause (1) (c) unless the contract to purchase the deferred life annuity meets the prescribed requirements.

Approval

(7) If a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent.

(8) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Terms and conditions

(9) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 90 (hearing), may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. Order for repayment

(10) Subject to section 90 (hearing and appeal), an order for payment under subsection (9), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(11) The administrator is discharged on making the payment or transfer in accordance with the direction of the former member if the payment or transfer complies with this Act and the regulations. Discharge of administrator

44.—(1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company. Purchase of pension

(2) The authority of the administrator under subsection (1) is subject to the entitlement of a member under section 43 and to the limitations prescribed in relation to transfers of funds from pension funds. Limitations

(3) If a purchase under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent. Approval by Superintendent

(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Idem

(5) If a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent, subject to section 90 (hearing), by order may require any person to whom payment under Order for repayment

subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.

Enforcement (6) Subject to section 90 (hearing and appeal), an order for payment under subsection (5), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Joint and survivor pension benefits **45.**—(1) Every pension paid under a pension plan to a former member who has a spouse on the date that the payment of the first instalment of the pension is due shall be a joint and survivor pension.

Commuted value (2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the former member.

Amount of survivor benefit (3) The amount of the pension payable to the survivor of the former member and the spouse of the former member shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and his or her spouse.

Application of subss. (1-3) (4) Subsections (1) to (3) do not apply,
 (a) in respect of a pension benefit if payment of the pension has commenced before the date on which this Act comes into force; or
 (b) in respect of a former member who is living separate and apart from his or her spouse on the date that payment of the first instalment of the pension is due.

Deferred life annuity (5) Where,
 (a) prior to the date on which this Act comes into force, a deferred life annuity has been purchased from an insurance company for a person entitled to a deferred pension under the *Pension Benefits Act*;

R.S.O. 1980,
 c. 373

(b) payments have not commenced under the annuity on the date on which this Act comes into force; and
 (c) the recipient of the payments has a spouse on the date payments commence,

the annuity shall be paid as a joint and survivor pension in accordance with the requirements of this section and the insurance company shall make payments accordingly.

(6) For the purposes of subsection (5), the insurance company shall be deemed to be the administrator under sections 46 and 47.

Application
of ss.46, 47

46.—(1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit.

Information
for payment

(2) The person entitled to the payment shall provide the information to the administrator.

Person to
provide
information

(3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator.

Discharge
of
administrator

47.—(1) The persons entitled to a joint and survivor pension benefit may waive the entitlement to receive payment of pension benefits in the form of a joint and survivor pension by delivering to the administrator of the pension plan or, in the case of a deferred life annuity, to the insurance company a written waiver in the prescribed form or a certified copy of a domestic contract, as defined in Part IV of the *Family Law Act, 1986*, containing the waiver.

Waiver of
joint and
survivor
pension
benefit

1986, c. 4

(2) The waiver is not effective unless the written direction or certified copy is delivered to the administrator within the period of twelve months immediately preceding the commencement of payment of the pension benefit.

Time

(3) Persons who have delivered a waiver under subsection (1) may jointly cancel the waiver by written and signed notice delivered to the administrator before commencement of payment of the pension benefit.

Cancellation
of waiver

48.—(1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of remarriage after the death of the former member.

Remarriage
of spouse

Application
of subs. (1)

(2) Subsection (1) applies in respect of pensions that are being paid on the 1st day of January, 1987 or that commence to be paid after the 31st day of December, 1986.

Pre-
retirement
death benefit

49.—(1) If a member or former member of a pension plan who is entitled under the pension plan to a deferred pension described in section 38 (entitlement to deferred pension) dies before commencement of payment of the deferred pension, the person who is the spouse of the member or former member on the date of death is entitled,

- (a) to receive a lump sum payment equal to the commuted value of the deferred pension; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the deferred pension.

Idem

(2) If a member of a pension plan continues in employment after the normal retirement date under the pension plan and dies before commencement of payment of pension benefits referred to in section 38, the person who is the spouse of the member or former member on the date of death is entitled,

- (a) to receive a lump sum payment equal to the commuted value of the pension benefit; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the pension benefit.

Application
of
subss. (1, 2)

(3) Subsections (1) and (2) do not apply where the member or former member and his or her spouse are living separate and apart on the date of the death of the member or former member.

Election

(4) A spouse who has an entitlement under subsection (1) or (2) shall elect within the prescribed period of time to receive payment under clause (a) or (b) of the subsection and if the spouse does not make an election, the spouse shall be deemed to have elected to receive an immediate pension.

Calculation
of benefit

(5) For the purposes of this section, the deferred pension or pension benefits to which a member is entitled if the member dies while employed shall be calculated as if the member's employment were terminated immediately before the member's death.

Designated
beneficiary

(6) A member or former member of a pension plan may designate a beneficiary and the beneficiary is entitled to be

paid an amount equal to the commuted value of the deferred pension mentioned in subsection (1) or (2) if,

- (a) the member or former member does not have a spouse on the date of death; or
- (b) the member or former member is living separate and apart from his or her spouse on that date.

(7) The personal representative of the member or former member is entitled to receive payment of the commuted value mentioned in subsection (1) or (2) as the property of the member or former member, if the member or former member has not designated a beneficiary under subsection (6) and, Estate entitlement

- (a) does not have a spouse on the date of the member or former member's death; or
- (b) is living separate and apart from his or her spouse on that date.

(8) If the pension plan provides for payment of pension benefits to or for a dependent child or dependent children of the member or former member upon the death of the member or former member, the commuted value of the payments may be deducted from the entitlement of a beneficiary designated under subsection (6) or of a personal representative under subsection (7). Dependent children

(9) It is the responsibility of the person entitled to the payment to provide to the administrator the information needed to make the payment. Information

(10) In the absence of actual notice to the contrary, the administrator is discharged on making payment in accordance with the information provided by the person. Discharge of administrator

(11) A pension plan may provide for reduction of an amount to which a person is entitled under this section to offset any part of a prescribed additional benefit that is attributable to an amount paid by an employer, subject to the following: Offset

1. The reduction shall be calculated in the prescribed manner.
2. The reduction shall not exceed the prescribed limits.

Discharge of entitlement

(12) Payment in accordance with this section replaces the entitlement of a member or former member in respect of a deferred pension mentioned in section 38.

Order or domestic contract

(13) An entitlement to a benefit under this section is subject to any right to or interest in the benefit set out in a domestic contract or an order referred to in section 52 (payment on marriage breakdown).

Waiver

(14) A member and his or her spouse may waive the spouse's entitlement under subsection (1) or (2) in the prescribed form and, for the purpose, subsections (6) and (7) apply as if the member does not have a spouse on the date of the member's death.

Definition
R.S.O. 1980,
c. 143

(15) In this section, "personal representative" has the same meaning as in the *Estates Administration Act*.

Variation of payment to disabled person

50. A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to shorten considerably the life expectancy of the member or former member.

Commuted value

51.—(1) A pension plan may provide for payment to a former member of the commuted value of a benefit if the annual benefit payable at the normal retirement date is not more than 2 per cent of the Year's Maximum Pensionable Earnings in the year that the former member terminated employment.

Idem

(2) A pension plan registered before the date on which this Act comes into force may provide that upon termination of employment a person entitled to a deferred pension under section 37 (deferred pension) is entitled to payment of an amount not greater than 25 per cent of the commuted value of the deferred pension.

Payment on marriage breakdown
1986, c. 4

52.—(1) A domestic contract as defined in Part IV of the *Family Law Act, 1986* or an order under Part I of that Act is not effective to require payment of a pension benefit before the earlier of,

- (a) the date on which payment of the pension benefit commences; or
- (b) the normal retirement date of the relevant member or former member.

(2) A domestic contract or an order mentioned in subsection (1) is not effective to cause a party to the domestic contract or order to become entitled to more than 50 per cent of the pension benefits, calculated in the prescribed manner, accrued by a member or former member during the period when the party and the member or former member were spouses. Maximum percentage

(3) If payment of a pension or a deferred pension is divided between spouses by a domestic contract or an order mentioned in subsection (1), the administrator is discharged on making payment in accordance with the domestic contract or order. Discharge of administrator

(4) If a domestic contract or an order mentioned in subsection (1) affects a pension, the administrator of the pension plan shall revalue the pension in the prescribed manner. Revaluation of joint and survivor pension

(5) A spouse on whose behalf a certified copy of a domestic contract or order mentioned in subsection (1) is given to the administrator of a pension plan has the same entitlement, on termination of employment by the member or former member, to any option available in respect of the spouse's interest in the pension benefits as the member or former member named in the domestic contract or order has in respect of his or her pension benefits. Transfer

53.—(1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in, Discrimination on basis of sex

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) determining the pension benefits or the commuted value of pension benefits that a member, former member or other beneficiary is or may become entitled to;
- (c) the provision of eligibility conditions for membership; and
- (d) the provision of ancillary benefits.

(2) In order to comply with subsection (1), the administrator may, Administration

- (a) use annuity factors that do not differentiate as to sex;

- (b) provide for employer contributions that vary according to the sex of the employee; or
- (c) use any prescribed method of calculation or valuation.

Application

(3) This section applies in respect of contributions, benefits and conditions in relation to,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; and
- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

Inflation protection

54.—(1) Pension benefits, pensions or deferred pensions shall be adjusted in accordance with the established formula or formulas and in the prescribed manner to provide inflation-related increases.

Idem

(2) Any formula or formulas for any inflation related adjustments to pension benefits, pensions or deferred pensions shall be established only by amendment to this Act.

C.P.P./
Q.P.P.
offsets
R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

55.—(1) The reduction of a pension benefit that may be required by a pension plan in relation to payments under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula applied in the prescribed manner.

Idem

(2) The amount of the reduction of a member's pension benefit required under the pension plan in relation to payments mentioned in subsection (1) shall not be increased by reason of an increase in the payments after the date on which the member's employment is terminated.

Reduction re
*Old Age
Security Act*
(Canada)

(3) A pension plan for registration of which application is made on or after the date on which this Act comes into force shall not permit the reduction of a pension benefit based on a person's entitlement under the *Old Age Security Act* (Canada).

(4) Subsection (3) does not apply to a pension plan that is a successor of a pension plan registered under the *Pension Benefits Act* that permitted such a reduction.

Application
of subs. (3)
R.S.C. 1980,
c. 373

(5) A pension plan shall not permit reduction of a pension benefit based on a person's entitlement under the *Old Age Security Act* (Canada) in respect of a benefit accrued on or after the 1st day of January, 1987.

Idem
R.S.C. 1970,
c. O-6

(6) Where a pension plan provides for the reduction of a member's or former member's bridging benefit by reason that the member or former member receives or is eligible to receive retirement benefits before attaining sixty-five years of age under the *Canada Pension Plan* or the *Quebec Pension Plan*, the reduction may only be made in the prescribed circumstances.

Bridging
benefit

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9

(7) Where a pension plan provides for the variation of a pension benefit by reason of benefits payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada), the variation shall be applied in the prescribed manner.

Variations
based on
other benefits
R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

CONTRIBUTIONS

56.—(1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations.

Funding

(2) An employer required to make contributions under a pension plan, or a person required to make contributions under a pension plan on behalf of an employer, shall make the contributions in the prescribed manner and in accordance with the prescribed requirements for funding,

Payment

(a) to the pension fund; or

(b) if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan.

57.—(1) The administrator of a pension plan or, if there is an agent of the administrator responsible for receiving contributions under the pension plan, the administrator and the agent shall give written notice to the Superintendent of a contribution that is not paid when due.

Notice to
Superin-
tendent

(2) The administrator and the agent shall give the notice to the Superintendent within sixty days after the date on which

When notice
required

the administrator or the agent first became aware of the failure to pay the contribution.

Multi-
employer
pension plan

(3) The administrator and the agent of a multi-employer pension plan shall give the notice to the Superintendent within the prescribed period of time after the date on which the administrator or the agent first became aware of the failure to pay the contribution.

Trust
property

58.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund.

Money
withheld

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee.

Accrued
contributions

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund.

Wind up

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations.

Lien and
charge

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4).

Application
of
subss. (1,
3, 4)

(6) Subsections (1), (3) and (4) apply whether or not the moneys have been kept separate and apart from other money or property of the employer.

Moneys to
be paid to
insurance
company

(7) Subsections (1) to (6) apply with necessary modifications in respect of moneys to be paid to an insurance company that guarantees pension benefits under a pension plan.

Accrual

59.—(1) Money that an employer is required to pay into a pension fund accrues on a daily basis.

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. Interest

60. The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. Collection of contributions

61. The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount. Bond

62. An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the plan a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required to make and any other obligations of the employer under the pension plan. Statement of employer's obligation

63. Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by the regulations. Investment of pension fund

LOCKING IN

64.—(1) No member or former member is entitled to a refund from a pension fund of contributions made in respect of employment in Ontario or a designated province on or after the qualification date. Refunds

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon to a member or former member or a payment under subsection 40 (4) (entitlement to excess amount). Idem

(3) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 37 (deferred pension for past service) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment before the 1st day of January, 1987. Refund related to past employment

Refund related to post-reform employment

(4) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 38 (deferred pension) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment after the 31st day of December, 1986.

Application of subs. (1)

(5) Subsection (1) does not apply,

- (a) to prevent the commutation of a pension benefit under subsection 51 (1) (commuted value);
- (b) to prevent a payment under subsection 51 (2); or
- (c) to such other circumstances as are prescribed.

Application of subs. (3, 4)

(6) Subsections (3) and (4) do not apply in respect of a member of a multi-employer pension plan unless the member terminates his or her membership in the multi-employer pension plan.

Refund with consent

(7) Notwithstanding subsection (1), on application by the administrator, contributions may be refunded to a member or a former member with the consent of the Commission.

Consent of Commission

(8) On application by the administrator of a pension plan, the Commission may consent to a refund under subsection (7) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions.

Shorter qualification periods

65.—(1) A pension plan may provide for shorter qualification periods for entitlement to a deferred pension than those set out in sections 37 (deferred pension for past service) and 38 (deferred pension).

Refund

(2) A pension plan that provides for qualification periods for a deferred pension that are shorter than the periods set out in section 37 or 38 may permit a refund of contributions to a person who terminates employment after becoming entitled to a deferred pension under the pension plan before the completion of the qualification period referred to in section 37 or 38.

Void transactions

66.—(1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 43 (transfer), 44 (purchase of pension), clause 49 (1) (b) (pre-retirement death benefit) or subsection 74 (2) (transfer rights on wind up) is void. Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in moneys payable under a pension plan or moneys payable as a result of a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) (transfer rights on wind up) by an order under the *Family Law Act, 1986* or by a domestic contract as defined in Part IV of that Act. Exemption for order or separation agreement
1986, c. 4

67.—(1) Money payable under a pension plan is exempt from execution, seizure or attachment. Exemption from execution, seizure or attachment

(2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity under section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment. Idem

(3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment. Idem

(4) Notwithstanding subsection (1), payments under a pension or that result from a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) are subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half the money payable. Order for support or maintenance

(5) Subsection (4) applies to orders for support or maintenance enforceable in Ontario whether made before or after the coming into force of this Act. Application of subs. (4)

68.—(1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer under section 43, 44, 49 or subsection 74 (2) to which a person is entitled is not capable of being commuted or surrendered during the person's life. Commutation or surrender

(2) A transaction that purports to commute or surrender such a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement is void. Void transaction

Application
of
subss. (1, 2)

(3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 50 (variation of payment to disabled person) or to a commutation of a benefit under section 51 (commuted value).

WINDING UP

Winding up

69.—(1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part.

Notice

(2) The administrator shall give written notice of proposal to wind up the pension plan to,

- (a) the Superintendent;
- (b) each member of the pension plan;
- (c) each former member of the pension plan;
- (d) each trade union that represents members of the pension plan;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund.

Notice
of partial
wind up

(3) In the case of a proposal to wind up only part of a pension plan, the administrator is not required to give written notice of the proposal to members, former members or other persons entitled to payment from the pension fund if they will not be affected by the proposed partial wind up.

Information

(4) The notice of proposal to wind up shall contain the information prescribed by the regulations.

Effective
date

(5) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members.

Order by
Superin-
tendent

(6) The Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change.

Winding up
order by
Superin-
tendent

70.—(1) The Superintendent by order may require the wind up of a pension plan in whole or in part if,

- (a) there is a cessation or suspension of employer contributions to the pension fund;
- (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);
- (d) a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (e) all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (f) all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person;
- (g) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in whole or in part;
- (h) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
- (i) any other prescribed event or prescribed circumstance occurs.

R.S.C. 1970,
c. B-3

(2) In an order under subsection (1), the Superintendent shall specify the effective date of the wind up, the persons or class or classes of persons to whom the administrator shall give notice of the order and the information that shall be given in the notice.

Date and
notice

Wind up
report

71.—(1) The administrator of a pension plan that is to be wound up in whole or in part shall file a wind up report that sets out,

- (a) the assets and liabilities of the pension plan;
- (b) the benefits to be provided under the pension plan to members, former members and other persons;
- (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
- (d) such other information as is prescribed.

Payments
out of
pension
fund after
notice of
proposal to
wind up

(2) No payment shall be made out of the pension fund in respect of which notice of proposal to wind up has been given until the Superintendent has approved the wind up report.

Application
of subs. (2)

(3) Subsection (2) does not apply to prevent continuation of payment of a pension or any other benefit the payment of which commenced before the giving of the notice of proposal to wind up the pension plan or to prevent any other payment that is prescribed or that is approved by the Superintendent.

Approval

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent.

Refusal to
approve

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan.

Rights and
benefits
on partial
wind up

(6) On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.

Appointment
of
administrator
to wind up

72.—(1) If a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Superintendent may act as or may appoint an administrator.

(2) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent may be paid out of the pension fund.

Costs of administration on winding up

73.—(1) On the wind up of a pension plan in whole or in part, the administrator shall give to each person entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out the person's entitlement under the pension plan, the options available to the person and any other prescribed information.

Notice of entitlements

(2) If a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 75 (1) (b), and the administrator of the pension plan shall make payment in accordance with the election or deemed election.

Election

74.—(1) For the purpose of determining the amounts of pension benefits and any other benefits and entitlements on the winding up of a pension plan, in whole or in part,

Determination of entitlements

- (a) the employment of each member of the pension plan affected by the winding up shall be deemed to have been terminated on the effective date of the wind up;
- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights under section 75.

(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 43 (1) (transfer) of a member who terminates employment and, for the purpose, subsection 43 (3) does not apply.

Transfer rights on wind up

75.—(1) A member in Ontario of a pension plan whose combination of age plus years of continuous employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan in whole or in part, has the right to receive,

Combination of age and years of employment

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;
- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
 - (i) the normal retirement date under the pension plan, or
 - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or
- (c) a reduced pension in the amount payable under the terms of the pension plan beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.

Part year

(2) In determining the combination of age plus employment or membership, one-twelfth credit shall be given for each month of age and for each month of continuous employment or membership at the effective date of the wind up.

Member for ten years

(3) Bridging benefits offered under the pension plan to which a member would be entitled if the pension plan were not wound up and if the membership of the member were continued shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

Prorated bridging benefit

(4) For the purposes of subsection (3), if the bridging benefit offered under the pension plan is not related to periods of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to payment of pension benefits and a full bridging benefit under the pension plan if the pension plan were not wound up.

Notice of termination of employment

(5) Membership in a pension plan that is wound up in whole or in part includes the period of notice of termination

of employment required under Part XII of the *Employment Standards Act*. R.S.O. 1980, c. 137

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment. Application of subs. (5)

(7) For the purposes of this section, where the consent of an employer is an eligibility requirement for entitlement to receive an ancillary benefit, the employer shall be deemed to have given the consent. Consent of employer

(8) This section and sections 74 (determination of entitlements), 85, 86 and 87 (guaranteed benefits) apply in respect of the wind up, in whole or in part, of a pension plan where the effective date of the wind up is on or after the 1st day of April, 1987. Application of section

(9) A person affected by a wind up who elects to receive a benefit under subsection (1) is not entitled to payment of any refund of contributions or interest under subsection 64 (3) or (4) (refunds). Refund

76.—(1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund, Liability of employer on wind up

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Commission declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits accrued with respect to employment in Ontario vested under the pension plan, and
 - (iii) the value of benefits accrued with respect to employment in Ontario resulting from the application of subsection 40 (3) (50 per cent rule) and section 75,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario.

Payment

(2) The employer shall pay the moneys due under subsection (1) in the prescribed manner and at the prescribed times.

Pension fund continues subject to Act and regulations

77. The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed.

Insufficient pension fund

78. Subject to the application of the Guarantee Fund, where the moneys in a pension fund are not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

SURPLUS

Payment out of pension fund to employer

79.—(1) No money may be paid out of a pension fund to the employer without the prior consent of the Commission.

Application for payment

(2) An employer who applies to the Commission for consent to payment of money that is surplus to the employer out of a pension fund shall transmit notice of the application, containing the prescribed information, to,

- (a) each member and each former member of the pension plan to which the pension fund relates;
- (b) each trade union that represents members of the pension plan;
- (c) any other individual who is receiving payments out of the pension fund; and
- (d) the advisory committee established in respect of the pension fund.

Representations

(3) A person to whom notice has been transmitted under subsection (2) may make written representations to the Commission with respect to the application within thirty days after receiving the notice.

Return of excess amount

(4) The Commission may consent to payment out of a pension fund to an employer of an amount not in excess of the amount of an overpayment by the employer into the pension fund or of an amount paid by the employer that should have been paid out of the pension fund, but shall not consent

unless the application is made in the same fiscal year of the pension fund as the fiscal year in which the overpayment or the payment occurred.

80.—(1) The Commission shall not consent to payment of money that is surplus to the employer out of a continuing pension plan unless, Continuing
pension plan

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Commission that the applicant is otherwise entitled to withdraw the surplus;
- (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the employer's current service costs is retained in the pension fund as surplus;
- (d) where the members are not required to make contributions under the pension plan, the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,
 is retained in the pension fund as surplus;
- (e) where members are required to make contributions under the pension plan, all surplus attributable to contributions paid by members and the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,

are retained in the pension fund as surplus; and

- (f) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Where no provision in pension plan

(2) A pension plan that does not provide for the withdrawal of surplus moneys while the pension plan continues in existence shall be construed to prohibit the withdrawal of surplus moneys accrued after the 31st day of December, 1986.

Application of subs. (2)

(3) Subsection (2) comes into force on the 1st day of January, 1989.

Wind up

(4) The Commission shall not consent to an application in respect of a pension plan that is being wound up in whole or in part unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for payment of surplus to the employer on the wind up of the pension plan;
- (c) provision has been made for the payment of all liabilities of the pension plan as calculated for purposes of termination of the pension plan; and
- (d) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Idem

(5) A pension plan that does not provide for payment of surplus moneys on the wind up of the pension plan shall be construed to require that surplus moneys accrued after the 31st day of December, 1986 shall be distributed proportionately on the wind up of the pension plan among members, former members and any other persons entitled to payments under the pension plan on the date of the wind up.

Application of subs. (5)

(6) Subsection (5) comes into force on the 1st day of January, 1989.

Decision

(7) The Commission shall transmit its decision, together with written reasons therefor, to the applicant and to each person who made written representations to the Commission in accordance with subsection 79 (3).

(8) The Commission may attach such conditions and limitations to its consent under this section as the Commission considers necessary in the circumstances.

Conditions
and
limitations

(9) The *Statutory Powers Procedure Act* does not apply in respect of a decision made by the Commission under this section.

Application
of
R.S.O. 1980,
c. 484

(10) The Commission shall not consent to payment of money from surplus to the employer out of a continuing pension plan until such date as may be prescribed.

Interim
prohibition
to giving
consent

SALES, TRANSFERS AND NEW PLANS

81.—(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan who, in conjunction with the sale, assignment or disposition becomes an employee of the successor employer and becomes a member of a pension plan provided by the successor employer,

Continuation
of benefits
under succes-
sor employer

- (a) continues to be entitled to the benefits provided under the employer's pension plan in respect of employment in Ontario or a designated province to the effective date of the sale, assignment or disposition without further accrual;
- (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and
- (c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

(2) Clause (1) (a) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer's pension plan and the pension plan of the successor employer shall be deemed to be a continuation of the employer's plan with respect to any benefits or assets transferred.

Exception

(3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.

Employment
deemed not
terminated

Transfer
on sale

(4) Where a transaction described in subsection (1) occurs and the successor employer assumes responsibility in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the successor employer without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Consent by
Superin-
tendent

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the employer's pension plan or that does not meet the prescribed requirements and qualifications.

Order for
return

(6) The Superintendent by order may require the transferee to return to the pension fund, with interest, assets transferred without the prior consent required by subsection (4).

Enforcement

(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Multi-
employer
pension
plan
R.S.O. 1980,
c. 288

(8) Where a group of members of a multi-employer pension plan are represented by a trade union and in accordance with section 56 of the *Labour Relations Act* the trade union ceases to represent the members and they become represented by a different trade union certified as their bargaining agent and become members of a different pension plan, the administrator of the first pension plan shall transfer to the administrator of the new pension plan all the assets and liabilities respecting those members who have elected under section 43 to transfer their entitlement to the new pension plan and the administrator of the new pension plan shall accept the transfer as assets and liabilities of the new plan.

Idem

(9) Where a group of members of a multi-employer pension plan are represented by a trade union and in accordance with section 56 of the *Labour Relations Act* the trade union ceases to represent the members and they become represented by a different trade union certified as their bargaining agent and become members of a different pension plan and the members are not entitled to make an election under section 43, the administrator of the old pension plan shall transfer to the administrator of the new pension plan all assets and liabilities of the pension plan attributable to such members determined as prescribed and the administrator of the new pension plan shall accept them as assets and liabilities, determined as prescribed, of the new plan.

(10) Subsections (8) and (9) do not apply where there is a reciprocal agreement respecting the pension plans. Application of subs. (8), (9)

(11) In this section, "successor employer" means the person who acquires the business or the assets of the employer. Definition

82.—(1) Where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the original pension plan shall be deemed not to be wound up and the new pension plan shall be deemed to be a continuation of the original pension plan. Adoption of new pension plan

(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan. Continuation of benefits

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan. Application of subs. (2)

(4) No transfer of assets shall be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent or contrary to the prescribed terms and conditions. Transfer of assets

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications. Consent by Superintendent

(6) The Superintendent by order may require the transferee to return to the pension fund assets, with interest calculated in the prescribed manner, transferred without the prior consent of the Superintendent or transferred contrary to a prescribed term or condition. Order

(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(8) No transfer of assets shall be made from one pension fund to another pension fund in circumstances where subsections (1) to (7) do not apply or where section 43 or 81 does not apply, without the prior consent of the Superintendent or contrary to the prescribed terms and conditions and for the Fund to fund

purpose, subsections (5) to (7) apply with necessary modifications.

PENSION BENEFITS GUARANTEE FUND

Guarantee
Fund
continued

83.—(1) The Pension Benefits Guarantee Fund is continued.

Adminis-
tration

(2) The Commission is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund.

Expenses

(3) The Commission may charge to the Guarantee Fund the reasonable expenses incurred by the Commission in the administration of the Guarantee Fund.

Loans to
Guarantee
Fund

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs.

Guarantee
Fund
declaration

84.—(1) The Commission, subject to section 91 (notice and representations), shall declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan.

Conditions
precedent

(2) The Commission shall make the declaration if,

- (a) the pension plan is registered under this Act or is registered in a designated province to provide for the reciprocal application of this Act;
- (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
- (c) the pension plan is wound up in whole or in part; and
- (d) the Commission is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied.

Guaranteed
benefits

85.—(1) Where the Guarantee Fund is declared by the Commission to apply to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of employment in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member's employment or membership was terminated before the date on which this Act comes into force and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 37 or 38 (deferred pension), or both, if the member's or former member's employment or membership was terminated on or after the date on which this Act comes into force, equal to 20 per cent if the combination of the member's or former member's age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.
4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.
5. The minimum value of all required contributions made to the pension plan by a member or former member in respect of employment in Ontario plus interest.
6. That part of a deferred pension guaranteed under this subsection to which a former spouse of a member or of a former member is entitled under a domestic contract or an order under the *Family Law Act, 1986*. 1986, c. 4
7. Any pension to which a survivor of a former member is entitled under subsection 49 (1) (death before commencement of payment).

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits.

Bridging
benefits

Part year (3) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of continuous employment or membership as of the date of termination of employment.

Definition (4) For the purpose of this section, "pension benefits" includes any benefits or options elected under section 75 (combination of age and years of employment).

Payments not guaranteed **86.** The following are not guaranteed by the Guarantee Fund:

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.
2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.
6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans.

Lien for payment out of Guarantee Fund

87.—(1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Commission has a lien and charge on the assets of the employer or employers who provided the pension plan.

Amount of lien

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations.

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Commission may so register notice of the lien and charge.

Real
property

(4) The Commission is subrogated to the rights of the administrator of a pension plan in respect of which the Commission authorizes payment from the Guarantee Fund in satisfaction of a pension, deferred pension, pension benefit or contribution guaranteed under section 85 (guaranteed benefits).

Subrogation

ORDERS

88.—(1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 90 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

Order by
Superin-
tendent

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

Condition
precedent
to order

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.

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

Time

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

Reasons
for order

89.—(1) The Commission, in the circumstances mentioned in subsection (2) and subject to section 91 (notice and representations), by order may require an administrator to take the action specified in subsection (3).

Order by
Commission

(2) The Commission may make an order under this section where the Commission is of the opinion,

Grounds
for order

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan do not accord with generally accepted actuarial principles; or
- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan.

Contents
of order

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

HEARING AND APPEAL

Notice of
proposal
to refuse
or revoke

90.—(1) Where the Superintendent proposes to refuse to register a pension plan or an amendment to a pension plan or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator of the plan.

Notice of
proposal to
make order

(2) Where the Superintendent proposes to make an order under,

- (a) subsection 43 (9) (repayment of money transferred out of pension fund);
- (b) subsection 44 (5) (repayment of money paid to purchase pension, deferred pension or ancillary benefit);
- (c) subsection 81 (6) (transfer of assets to pension fund of successor employer);
- (d) subsection 82 (6) (transfer of assets to new pension fund); or
- (e) section 88 (administration of pension plan or contravention of Act or regulation),

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any

other person to whom the Superintendent proposes to direct the order.

(3) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator, and the Superintendent shall serve or require the administrator to serve a copy of the notice and the written reasons on the employee.

Notice of
proposal re
membership

(4) Where the Superintendent proposes to refuse to give an approval or consent or proposes to attach terms and conditions to an approval or consent under this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval or consent.

Notice of
proposal to
attach terms
and
conditions
to approval
or consent

(5) Where the Superintendent proposes to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and the written reasons on such other persons or classes of persons or both as the Superintendent specifies in the notice to the administrator.

Notice of
proposed
wind up
order

(6) A notice under subsection (1), (2), (3), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Commission if the person delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

Notice
requiring
hearing

(7) Where the person on whom the notice is served does not require a hearing in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice.

Power of
Superin-
tendent

(8) Where the person requires a hearing by the Commission in accordance with subsection (6), the Commission shall appoint a time for and hold the hearing.

Hearing

(9) At or after the hearing, the Commission by order may direct the Superintendent to carry out or to refrain from carrying out the proposal and to take such action as the Commission considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the

Power of
Commission

Commission may substitute its opinion for that of the Superintendent.

Conditions (10) The Commission may attach such terms and conditions to its order or to the registration as the Commission considers proper to give effect to the purposes of this Act.

Parties (11) The Superintendent, the person who requires a hearing and such other persons as the Commission specifies are parties to the proceeding before the Commission under this section.

Opportunity to show compliance (12) A party to a hearing shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the registration of the pension plan.

Examination of documentary evidence (13) A party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Release of documentary evidence (14) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the matter in issue has been finally determined.

Notice of proposal by Commission

91.—(1) Where the Commission proposes to consider,

- (a) making a declaration that the Guarantee Fund applies to a pension plan;
- (b) making an order requiring the administrator of a pension plan to take specific action in relation to a report in respect of the pension plan; or
- (c) refusing to consent to a refund of contributions under section 64 (refunds),

the Commission shall serve notice of the proposal together with written reasons therefor on the administrator of the pension plan.

Additional notices

(2) The administrator shall transmit copies of the Commission's notice to such other persons or classes of persons or both as the Commission specifies in the notice to the administrator.

(3) A notice by the Commission under subsection (1) shall state that the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Commission within thirty days after service of the notice under that subsection.

Representations

(4) An individual who is entitled to make representations to the Commission under subsection (3) shall be afforded an opportunity, during the period of time when representations may be made, to examine any written or documentary evidence that will be produced or any report the contents of which will be considered by the Commission when the Commission considers its proposal.

Examination of documentary evidence

(5) The Commission shall transmit a copy of its decision, together with written reasons therefor, to the administrator, the employer and every other person who made representations to the Commission in accordance with subsection (3).

Notice of decision

(6) The *Statutory Powers Procedure Act* does not apply in respect of a declaration, refusal or order mentioned in subsection (1) by the Commission.

Application of R.S.O. 1980, c. 484

92.—(1) A party to a proceeding before the Commission under section 80, 90 or 91 may appeal to the Divisional Court from the decision or order of the Commission.

Appeal to court

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the prescribed fee, the Commission shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from.

Certified copy of record

93.—(1) Three members of the Commission constitute a quorum for the purposes of a proceeding before the Commission under section 90, and decisions in such proceedings require the vote of a majority of the members of the Commission present at the hearing in the proceeding.

Quorum and votes

(2) The Commission may sit in two or more panels simultaneously for the purposes of such proceedings.

Panels

(3) The head of the Commission shall assign the members of the Commission to its panels and may change an assignment at any time.

Assignment

(4) Where a proceeding is commenced before the Commission and the term of office on the Commission of a person sitting for the hearing expires or is terminated, other than for

Expiry of member's term of office

cause, before the proceeding has been disposed of but after evidence has been heard, the person shall be deemed to remain a member of the Commission for the purpose of completing the proceeding in the same manner as if his or her term of office had not expired or been terminated.

PENSION COMMISSION

- 94.**—(1) The Pension Commission of Ontario is continued.
- (2) The Commission shall be composed of not fewer than five and not more than nine members appointed by the Lieutenant Governor in Council.
- (3) The Lieutenant Governor in Council shall appoint the head and the deputy head of the Commission from among the members of the Commission.
- (4) The members of the Commission shall be appointed for terms of not more than three years and may be reappointed for further terms of not more than three years.
- (5) If the head of the Commission is absent or if there is a vacancy in the office of head of the Commission, the deputy head shall act as and have all the powers of the head of the Commission.
- (6) If both the head of the Commission and the deputy head are absent or if there are vacancies in the offices of head of the Commission and deputy head, the member of the Commission designated by the members of the Commission shall act as and have the powers of the head of the Commission.
- (7) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission or in the offices of head or deputy head of the Commission.
- (8) A majority of the members of the Commission, including the head or deputy head of the Commission, constitutes a quorum.
- (9) Such employees as are necessary to carry out the business of the Commission shall be appointed under the *Public Service Act*.
- (10) The members of the Commission shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council.

95.—(1) The office of Superintendent of Pensions is continued. Superintendent

(2) The Superintendent shall be appointed by the Commission. Appointment

(3) The Superintendent is the chief administrative officer of the Commission. Chief administrative officer

(4) The Superintendent shall exercise the powers and perform the duties that are vested in or imposed upon the Superintendent by this Act, the regulations and the Commission. Powers and duties

(5) The Superintendent may delegate in writing any power or duty of the Superintendent under this Act to any employee of the Commission, subject to the approval of the Commission and subject to any limitation or condition set out in the delegation. Delegation of powers and duties

96.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council, Reciprocal agreements

(a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;

(b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and

(c) delegate to a pension supervisory authority or the government of a designated province such functions and powers under this Act as the Commission may determine and the Commission may accept similar delegations of functions and powers from a pension supervisory authority or the government of a designated province.

(2) Where a pension plan required to be registered in Ontario is registered in a designated jurisdiction, the Commission by order may limit the application of this Act and the regulations to the pension plan and authorize the application of the law of the designated jurisdiction in respect of the pension plan. Applicable law

Duty of
Commission

97. It is the duty of the Commission,

- (a) to administer this Act and the regulations;
- (b) to promote the establishment, extension and improvement of pension plans throughout Ontario;
- (c) to advise the Minister in respect of the business of the Commission; and
- (d) to make recommendations to the Minister in respect of pension plans.

Research

98.—(1) It is a function of the Commission to conduct surveys and research programs and to compile statistical information related to pensions and pension plans.

Provision of
information

(2) The Commission may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time.

Confidenti-
ality

(3) The Commission shall use the information only for the purpose of compiling the statistical information.

Information

99.—(1) The Superintendent may require an employer, an administrator or any other person to supply to the Commission or the Superintendent such information in such form as is acceptable to the Superintendent and within such time limits as specified for the purpose of ascertaining whether or not this Act and the regulations are being complied with.

Idem

(2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Superintendent or other person designated by the Superintendent.

Appraisal

(3) The Superintendent may require the administrator to secure an appraisal of any or all of the assets of the pension fund by one or more independent valuers or the Superintendent may obtain the appraisal at the expense of the administrator.

Time

(4) The administrator shall deliver the appraisal to the Superintendent within the period of time specified by the Superintendent in the requirement or within such other period of time as the Superintendent may specify.

100. Every person entrusted by the Commission with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*.

Security

R.S.O. 1980,
c. 415

101. No member of the Commission or of the staff of the Commission is personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority.

Liability of
members and
employees of
Commission

102. The Provincial Auditor shall examine annually the accounts and financial transactions of the Commission.

Audit

103.—(1) The Commission shall report annually to the Minister on the business of the Commission.

Annual
report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

GENERAL

104. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act.

Pension
agency

105. Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the coming into force of this Act, shall be deemed to be registered upon the coming into force of this Act.

Transitional

106. The Commission or the Superintendent may extend any time limit under this Act or the regulations before or after the expiration of the time if satisfied that there are reasonable grounds for applying for the extension, and may give such directions as the Commission or the Superintendent considers proper consequent upon the extension.

Extension
of time

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

Interpre-
tation,
persons

1. The Superintendent.

2. Any person designated by the Superintendent or the Commission.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act.

Entry

(3) For a purpose mentioned in subsection (2), a person mentioned in subsection (1) may enter and have access to, through and over any business premises, where the person has reasonable grounds to believe books, papers, documents or things are kept that relate to a pension plan or pension fund.

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries and may require the production of any book, paper, document or thing related to a pension plan or pension fund.

Samples or
extracts

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

Reasonable
times

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

Private
residence

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

Removal of
books, etc.,
for copying

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed.

(9) A copy of any written or recorded material found in an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution for all purposes for which the original would have been admissible. Copies

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

a person mentioned in subsection (1) may apply to a justice of the peace for an inspection order under section 109.

(11) A person exercising a power under this section shall provide identification at the time of entry. Identification

108.—(1) No person shall hinder or obstruct a person mentioned in subsection 107 (1) who is lawfully carrying out a duty under this Act. Obstruction

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

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

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

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

or to do any of such things, for a purpose mentioned in subsection 107 (2); and

(b) that a person mentioned in subsection 107 (1),

(i) has been denied entry to the premises,

(ii) has reasonable grounds to believe that entry to the premises will be denied,

(iii) has been instructed to leave the premises,

(iv) has been obstructed, or

(v) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue an inspection order authorizing a person mentioned in subsection 107 (1) to act as mentioned in clause (a) in respect of the premises specified in the inspection order, by force if necessary, together with such police officer or officers as they call upon to assist them.

Execution
of order

(2) An inspection order issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Expiry of
order

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

Ex parte
application

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

Offence

110.—(1) Every person who contravenes this Act or the regulations is guilty of an offence.

Idem

(2) Every person who contravenes an order made under this Act is guilty of an offence.

111.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$25,000. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed is \$100,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is guilty of an offence under this Act, an officer, official, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to a fine of not more than \$25,000. Officers,
etc.

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company. Order for
payment

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

(6) No proceeding under this Act shall be commenced after five years after the date when the subject-matter of the proceeding occurred or is alleged to have occurred. Time limit

112. Where a provision of this Act or the regulations or an order or approval of the Commission or the Superintendent under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Commission or of the administrator of a pension plan affected by the contravention. Power to
restrain

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

(2) A notice, order or other document sent by first class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive the notice, order or other document, or did not receive it until a later Deemed
service

date, through absence, accident, illness or other cause beyond his or her control.

General
notice

(3) Where the Superintendent is of the opinion that because the persons who are to be given any notice or document under this Act or the regulations are so numerous or for any other reason it is not reasonable to give the notice or document to all or any of the persons individually, the Superintendent may authorize the giving of the notice or document or reasonable notice of the contents of the notice or document to the persons by public advertisement or otherwise as the Superintendent may direct and the date on which the notice or document or the reasonable notice of the contents is first published or otherwise given as directed shall be deemed to be the date on which the notice or document is given.

Time for
actions by
administrator

114. An administrator of a pension plan who is required to take an action under this Act or the regulations shall take the action within the prescribed period of time.

Conflict

1987, c. 35

115. In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over the *Pension Benefits Act, 1987*.

Regulations

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

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
- (c) prescribing reports that shall be submitted to the Commission, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;
- (d) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (e) prescribing assessments for the purposes of the Guarantee Fund and prescribing the classes of employers that shall pay such assessments;
- (f) prescribing procedures that shall govern the appointments of members of pension committees and advisory committees;

- (g) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (h) prescribing fees that shall be paid for copies of documents provided by the Commission;
- (i) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (j) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (k) prescribing the rate or the method of determining the rate at which an employer shall pay moneys due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (l) regulating or prohibiting the investment of moneys from pension funds and prescribing investments or classes of investments in which such moneys may be invested;
- (m) prescribing requirements for retirement savings contracts and life annuity contracts between members of pension plans and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made, and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (n) prescribing the rate of interest and the method of calculating interest payable under this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (o) prescribing forms and providing for their use;
- (p) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (q) prescribing requirements that shall be complied with in the administration of a pension plan;

- (r) prescribing records that shall be kept by the administrator of a pension plan and the period of time for which such records shall be retained by the administrator;
- (s) requiring the audit of pension plans or classes of pension plans and pension funds and classes of pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits;
- (t) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment before the date on which this Act comes into force or that is attributable to employment after the date on which this Act comes into force;
- (u) prohibiting or regulating the reduction of bridging benefits or the variation of pension benefits by reference to benefits payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act (Canada)*;
- (v) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;
- (w) governing the receiving, holding and disbursing of pension benefits by any agency established or designated under this Act;
- (x) exempting pension plans, pension funds, employees, administrators or other persons from the application of this Act or the regulations or from any section of this Act or the regulations.

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

Scope of
regulations

(2) A regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of
codes in
regulations

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted.

Terms,
conditions,
qualifications,
requirements

(4) Any provision of a regulation may be subject to such terms, conditions, qualifications or requirements as are specified in the regulation.

117. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980 and the *Pension Benefits Amendment Act, 1983*, being chapter 2, are repealed. Repeals

118. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

119. The short title of this Act is the *Pension Benefits Act, 1987*. Short title



Bill 176

An Act to amend the Nursing Homes Act

The Hon. M. Elston
Minister of Health

1st Reading December 16th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill provides that the fundamental principle to be applied in interpreting the Act is that a nursing home is primarily the home of its residents. The Bill also sets out additional principles to be used in interpreting the Act.

The Minister is given discretion to consider the effect of the concentration of ownership of nursing homes and the balance between profit oriented and non-profit oriented nursing homes in deciding whether to grant a nursing home licence.

The Bill permits the Director to undertake to issue a licence to an applicant for a licence subject to the applicant satisfying specified conditions.

The Act now prohibits transfers of licences. The Bill regulates the surrender of licences and their issuance to new licensees and provides for the scrutiny of transfers by indirect means and share transfers of corporations that own licences.

The Bill requires persons who suspect that a resident has or may suffer harm as a result of unlawful conduct, neglect or improper or incompetent care or treatment to report that belief to the Director.

The Bill provides for the establishment in each nursing home of a residents' council, composed of residents and their representatives and a residents' council advisory committee, composed of elected and appointed members. The advisory committee is to advise residents, to receive and investigate complaints, to assist residents in dealings with licensees, to review the operations of nursing homes, to report to the residents' council and to report their concerns or recommendations to the Minister. The Minister is authorized to hire residents' council advisors to assist residents' council advisory committees.

The Bill provides that licensees shall post financial statements respecting the operation of the nursing homes.

A number of other amendments, including housekeeping amendments, are included in the Bill.

Bill 176

1987

An Act to amend the Nursing Homes Act

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

1.—(1) Section 1 of the *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 55, section 223, is further amended by adding thereto the following clauses:

(aa) “committee” means a residents’ council advisory committee;

.

(ba) “equity share” means a share of a class of shares of a corporation that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

.

(j) “security interest” means an agreement between a person and a licensee that secures the licensee’s payment or performance of an obligation by giving the person an interest in the licence.

(2) The said section 1 is further amended by adding thereto the following subsections:

(2) A person shall be deemed to have a controlling interest in a corporation if the person alone or with an associate directly or indirectly beneficially owns or controls,

Controlling
interest

(a) issued and outstanding equity shares in the corporation in an amount to permit the person to direct the management and policies of the corporation; or

(b) 10 per cent or more of the issued and outstanding equity shares in the corporation.

Associates

(3) One person shall be deemed to be an associate of another person if,

- (a) one person is a corporation of which the other person is an officer or director;
- (b) one person is a partnership of which the other person is a partner;
- (c) one person is a corporation that is controlled directly or indirectly by the other person;
- (d) both persons are corporations and one person is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other person;
- (e) both persons are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both persons are associates within the meaning of clauses (a) to (e) of the same person.

Calculating shares

(4) In calculating the total number of equity shares of a corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as having the number of shares equal to the total number of votes it carries.

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

Fundamental principle

1a.—(1) The fundamental principle to be applied in the interpretation of this Act and the regulations is that a nursing home is primarily the home of its residents and as such it is to be operated in such a way that the physical, psychological, social, cultural and spiritual needs of each of its residents are adequately met and that its residents are given the opportunity to contribute, in accordance with their ability, to the physical, psychological, social, cultural and spiritual needs of others.

Further principles

(2) Without restricting the generality of the foregoing, this Act and the regulations are to be interpreted so as to advance the objective that nursing homes be operated in accordance with the following principles:

1. Each resident shall be treated with dignity, courtesy and respect.
2. Each resident shall be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
3. Each resident shall have a reasonable opportunity to keep in his or her room and display personal possessions, pictures and furnishings, in keeping with space limitations, safety requirements and other residents' rights.
4. Each resident shall have the right to consent to the giving or refusing of medical treatment or medication in accordance with the law and shall be given the opportunity to obtain an independent medical opinion concerning any proposed medical treatment or medication.
5. Each resident shall have the opportunity to participate fully in making any decision and obtaining an independent medical opinion with respect to any decision concerning his or her admission, discharge or transfer to or from a nursing home.
6. Each resident shall have the opportunity to communicate in confidence, to receive visitors and to consult in private with any other person without interference.
7. Each resident shall have the opportunity to form friendships, to enjoy relationships and to participate in the residents' council.
8. Each resident shall have the opportunity to pursue his or her social, cultural and other interests and to develop to his or her potential.
9. Each resident shall have the right to be informed of any law, rule or policy affecting the operation of the nursing home and to express his or her opinion concerning the operation of the nursing home without fear of reprisal.
10. Each resident shall respect the rights of other persons in the nursing home and shall treat other persons in the nursing home with dignity, courtesy and respect.

Principles
implied
in contracts

(3) Every contract relating to the admission of a resident to a nursing home shall be deemed to include the undertaking of the licensee to operate the home in accordance with the principles set forth in subsections (1) and (2).

Copies to
residents

(4) Every licensee shall post a copy of subsections (1), (2) and (3) in a prominent place in the nursing home and shall give a copy of them to each resident and a representative of the resident, if any, when the resident is admitted to the nursing home.

Transition

(5) Every licensee shall forthwith after the coming into force of this Act give a copy of subsections (1), (2) and (3) to every person who is a resident at that time and to a representative of that person, if any.

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “subsection (2)” in the first line and inserting in lieu thereof “the following subsections”.

(2) Subsection 4 (2) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(3) Subsection 4 (3) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(4) Subclause 4 (4) (d) (ii) of the said Act is amended by striking out “or” and inserting in lieu thereof “and”.

(5) Section 4 of the said Act is amended by adding thereto the following subsection:

Idem

(4a) In considering under subsection (2) whether it is in the public interest to grant a licence to establish, operate or maintain a nursing home in an area, the Minister shall also take into account,

(a) the effect that granting the licence would have on the concentration of ownership of nursing homes in Ontario; and

(b) the effect that granting the licence would have on the balance between non-profit and profit-oriented nursing homes in Ontario.

(6) Subsection 4 (5) of the said Act is repealed and the following substituted therefor:

Grounds for
refusal

(5) Subject to section 7, the Director may refuse to issue a licence where in the Director's opinion,

- (a) the proposed nursing home or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will not be operated in accordance with the law and with honesty and integrity;
- (c) the applicant or, where the applicant is a corporation, its officers or directors or the persons with a controlling interest in it are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services; or
- (d) the past conduct of the applicant, or where the applicant is a corporation, of its officers, directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will be operated in a manner that is prejudicial to the health, safety or welfare of its residents.

(7) Subsection 4 (8) of the said Act is repealed.

4. The said Act is further amended by adding thereto the following sections:

4a.—(1) The Director may undertake to issue a licence to an applicant on condition that the applicant agrees to satisfy the conditions specified by the Director.

Undertake to
issue licence

(2) Where the Director determines that the applicant has complied with the specified conditions, the Director shall issue the licence.

Issue licence,
if conditions
met

(3) Where the Director determines that the applicant has not complied with the specified conditions, the Director by written notice to the applicant may propose to cancel the undertaking.

Notice
to cancel
undertaking

(4) The applicant may submit to the Minister a written request for review asking that the Minister extend the undertaking and amend its conditions.

Request
for review

Minister's
decision

(5) Where the Minister receives a request for review within fifteen days after delivery of the notice under subsection (3), the Minister may extend the undertaking and amend its conditions or may cancel the undertaking.

Undertaking
cancelled

(6) Where the Minister does not receive a request for review within fifteen days after delivery of the notice under subsection (3), the undertaking shall be deemed to be cancelled.

Surrender
and issue
of licence

4b.—(1) Where a licensee notifies the Director that the licensee intends to surrender a licence to the Director on condition that the Director issue in its place a licence to a specified person, the specified person may apply for the issuance of the licence under this Act.

Idem

(2) Subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications to an application for a licence under subsection (1).

Idem

(3) Upon receiving notice that the Director intends to approve an application under subsection (1), the licensee shall surrender the licence and the Director shall issue a licence to the applicant.

Share
transfer
R.S.O. 1980,
c. 466

4c.—(1) Where a corporation that is a private company as defined in the *Securities Act* is a licensee, it shall not permit an issue or transfer of equity shares of its capital stock that has the effect of changing the ownership or controlling interest in the corporation without the prior approval of the Director.

Idem

(2) In deciding whether to approve an issue or a transfer of shares under subsection (1), the Director shall treat the corporation as proposed to be constituted after the transfer as if it were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Duty of
corporation
to notify
Director

4d.—(1) Where a licensee is a corporation, the licensee shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation.

Idem

(2) Where a corporation has an interest in a licence, and the corporation or its officers or directors have reason to believe that an issue or transfer of equity shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights results or may result in a person acquiring a controlling interest in the corporation, the person shall so notify the Director forthwith.

(3) The Director from time to time, in writing, may direct a corporation that has an interest in a licence or its officers or directors to provide the names and addresses of all of the officers and directors of the corporation and a statement concerning the ownership or beneficial ownership of equity shares of capital stock in the corporation, which statement shall contain the information that in the opinion of the Director is reasonably necessary to enable the Director to determine,

Statement
required

- (a) what persons, if any, have a controlling interest in the corporation; and
- (b) what persons, if any, own or beneficially own directly or indirectly the persons or a controlling interest in the persons mentioned in clause (a).

4e.—(1) A person who has a security interest in a licence shall not exercise that interest without the approval of the Director if exercise of the interest would change the ownership or controlling interest in the licence.

Exercise
of security
interest

(2) In deciding whether to approve an exercise of a security interest under subsection (1), the Director shall treat the person seeking to exercise the interest as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Matters
to be
considered

4f.—(1) A licensee shall not enter into a contract whose effect is to change the management of a nursing home or the ownership or controlling interest in a licence without the approval of the Director.

Management
contracts

(2) In deciding whether to approve a contract described in subsection (1), the Director shall treat the person who would take over the management of the nursing home or the ownership or controlling interest in the licence under the contract as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Matters
to be
considered

5. Clauses 5 (d) and (e) of the said Act are repealed and the following substituted therefor:

- (d) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is not being or will not be operated in accordance with the law and with honesty and integrity;

- (e) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the licensee, officers, directors or persons are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services;
- (f) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is being operated or will be operated in a manner that is prejudicial to the health, safety or welfare of its residents;
- (g) the licensee has ceased operating the nursing home for a period of at least six months and is not taking reasonable steps to prepare the nursing home to re-open;
- (h) the licensee is a corporation described in subsection 4c (1) that has permitted an issue or transfer contrary to that subsection;
- (i) a corporation or its officers or directors have failed to make a report or statement to the Director, contrary to section 4d;
- (j) a person who has a security interest in a licence has exercised that interest contrary to subsection 4e (1) without the approval of the Director; or
- (k) the licensee has entered into a contract described in subsection 4f (1) without the approval of the Director.

6. Section 7 of the said Act is amended by adding thereto the following subsections:

Idem

(2a) A licensee who requires a hearing shall provide proof with the notice requiring a hearing that the licensee has mailed or delivered to the residents' council and has posted in a prominent place in the nursing home a copy of the Director's notice with written reasons therefor and a copy of the notice requiring a hearing.

.

(4a) Before the Board hears a matter it must be satisfied that the applicant or licensee has been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence where it would be just and reasonable to do so. Opportunity
to comply

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

(1) The following are parties before the Board under this Act, Parties

- (a) the Director;
- (b) the applicant or the licensee who has required the hearing;
- (c) an agent for the residents' council; and
- (d) any other person the Board may specify.

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

(2) The Board may permit any person who is not a party before it, including a resident, a representative of a resident, an employee of a nursing home or any other person who may be affected by its decision, to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent. Submissions

(3) Subsection 8 (3) of the said Act is amended by striking out "An applicant or licensee who is" in the first line and by inserting after "subsection (1)" in the second line "and a person who is permitted to make submissions to the Board under subsection (2)".

(4) Subsection 8 (7) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

8. Section 11 of the said Act is repealed.

9. Subsection 12 (3) of the said Act is amended by inserting after "revoked" in the first line "and the revocation becomes final or where the nursing home is otherwise being operated without a licence".

10.—(1) Subsection 13 (2) of the said Act is amended by striking out “reduction in” in the second line and inserting in lieu thereof “reducing or increasing” and by striking out “reduction” in the fourth line and inserting in lieu thereof “reducing or increasing”.

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Agreement
for extra
services

(3) The Minister may enter into an agreement with a licensee for the provision of services in addition to those provided for under this Act and the regulations.

Copy to
residents'
council

(4) Upon entering into an agreement with the Minister under subsection (3), the licensee shall provide a copy of the agreement to the residents' council.

11.—(1) Section 14 of the said Act is amended by striking out “or” at the end of clause (b) and by adding thereto the following clauses:

(d) for services entered into under an agreement described in subsection 13 (3), the amount provided for by the agreement;

(e) for services not mentioned in clauses (a) through (c) that are designated by the regulations, the amount prescribed by the regulations; or

(f) for services not mentioned in clauses (a) through (e), the amount provided for under written agreements for those services between the licensee and the individual residents.

(2) The said section 14 is further amended by adding thereto the following subsection:

Idem

(2) The Director may permit a licensee to charge a specific amount greater than the amount prescribed by the regulations for a service described in clause (1) (e) where the licensee demonstrates to the Director that the actual cost of providing the service is greater than the amount prescribed by the regulations.

12. Section 15 of the said Act is repealed and the following substituted therefor:

Recovery
of excess
payment

15.—(1) Where any payment referred to in clause 14 (1) (a) or (d) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14

or the service has not been rendered or has been inadequately rendered, the Minister may,

- (a) withhold payments due to the licensee to recover the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) bring an action to recover from the licensee that amount, with costs, by action in a court of competent jurisdiction.

(2) Where any payment referred to in clause 14 (1) (b), (c), (e) or (f) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14, the service has not been rendered or has been inadequately rendered or in the case of a service described in clause 14 (1) (f) there was no written agreement, the Minister may, ^{Idem}

- (a) order the licensee to pay back to the person from whom it was accepted the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) withhold payments due to the licensee for the purpose of recovering the excess payment or the amount for which no service or inadequate service was rendered and pay the amount recovered to the person from whom it was accepted by or on behalf of the licensee.

13. Subsection 16 (2) of the said Act is amended by inserting after "inspector" wherever it occurs "and residents' council advisor".

14.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

(1) An inspector without a warrant at any time may enter upon the premises, including the business premises, of a nursing home to make an inspection to ensure that the provisions of this Act and the regulations are being complied with. ^{Inspection}

(2) Subsection 17 (2) of the said Act is amended by striking out "may at any reasonable time" in the fourth line and inserting in lieu thereof "without a warrant at any reasonable time may".

(3) Section 17 of the said Act is amended by adding thereto the following subsection:

Warrant

R.S.O. 1980,
c. 400

(2a) No inspector shall enter any room or place that is not in a nursing home and that is actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

(4) Subsection 17 (3) of the said Act is repealed and the following substituted therefor:

Powers on
inspection

(3) Upon an inspection under this section, the inspector,

- (a) is entitled at any reasonable time to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations;
- (b) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove any material referred to in clause (a) that relates to the purpose of the inspection in order to make a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person whose premises are being inspected;
- (c) may inspect the premises and operations;
- (d) may examine or test samples of substances to ensure that the regulations are being complied with; and
- (e) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove a substance or a sample of a substance referred to in clause (d) in order to conduct further tests, for any purpose reasonably necessary to carry out effectively the purposes of this Act.

Not to
obstruct
inspector

(3a) No person shall obstruct the inspector or withhold, destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(5) Section 17 of the said Act is further amended by adding thereto the following subsection:

(4a) A certificate as to the result of any test that contains the name and a statement of the qualifications of the person who conducted the test and purports to be signed by that person is, without proof of the office or signature of that person, receivable in evidence as *prima facie* proof of the facts stated in the certificate for all purposes in any proceeding or prosecution if it has been served on any party or defendant to the proceeding or prosecution within a reasonable time before the proceeding or trial in which it is to be adduced.

Admissibility
of test results

(6) Subsection 17 (5) of the said Act is repealed.

15. The said Act is further amended by adding thereto the following sections:

17a.—(1) A person who has reasonable grounds to suspect that a resident has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care or neglect shall forthwith report the suspicion and the information upon which it is based to the Director.

Reporting
of harm to
resident

(2) No person shall dismiss, discipline, penalize, coerce, intimidate or attempt to coerce or intimidate another person because the other person has,

No discipline
for reporting

- (a) made a report to the Director under subsection (1);
- (b) advised the Director of a breach of this Act or the regulations; or
- (c) advised the Director of any other matter concerning the care of a resident or the operation of a nursing home that the other person believes ought to be reported to the Director,

unless the other person acts maliciously or without reasonable grounds.

(3) No person shall include in a report to the Director under subsection (1) information the person knows to be false.

Idem

(4) Notwithstanding that the information on which a report may be based is confidential or privileged, subsection (1) also applies to a legally qualified medical practitioner or a person registered under the *Health Disciplines Act* to practice a health discipline and no action for making the report shall be commenced against a practitioner or person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion.

Duty on
practitioners

R.S.O. 1980,
c. 196

Privilege
of
solicitor

(5) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client.

Licensee
to forward
complaints

17b. A licensee shall forward forthwith on receipt to the Director any written complaint the licensee receives concerning the care of a resident or the operation of the nursing home.

Financial
statement

17c.—(1) A licensee shall, at the end of the licensee's fiscal year, prepare or cause to be prepared for each of the licensee's nursing homes a financial statement for the operation of that nursing home, including,

- (a) a statement of profit and loss for that fiscal year; and
- (b) any other matters respecting its financial operation that are prescribed by the regulations.

Statement to
be filed

(2) A licensee shall file the financial statement referred to in subsection (1) with the Minister within ninety days after the end of the licensee's fiscal year.

Posting
and public
inspection

(3) The licensee shall post a copy of the financial statement referred to in subsection (1) in a prominent place in the nursing home.

Residents'
council

17d.—(1) Whenever at least three persons who are either residents in a nursing home or representatives of residents so request, a residents' council shall be established for that nursing home.

Idem

(2) The residents' council shall be established and conducted in the manner provided for by the regulations.

Members

(3) Each resident, or where the resident is unable to participate, the resident's legal representative may be a member of the residents' council and, in addition, a person selected by the resident or the legal representative may be a member of the residents' council.

Idem

(4) No licensee or where the licensee is a corporation, no officer, director or person with a controlling interest in it and no member of the staff of a nursing home shall be a member of a residents' council.

Residents'
council
advisory
committee

17e.—(1) There shall be established for each residents' council a residents' council advisory committee to be composed of,

- (a) no fewer than three and no more than seven members, to be elected by the residents' council from among its members; and
 - (b) no more than three members who live in the area in which the nursing home is located, to be appointed by the Minister.
- (2) It is the function of a committee and it has the power to, Powers of committee
- (a) advise residents respecting their rights and obligations under this Act;
 - (b) advise residents respecting the rights and obligations of the licensee under this Act;
 - (c) receive and investigate complaints from residents and other persons;
 - (d) meet regularly with the licensee to,
 - (i) review Ministry inspection reports,
 - (ii) review the allocation of money for food, supplies and services provided by the nursing home,
 - (iii) review the financial statement filed under section 17c when it is filed, and
 - (iv) review the operation of the nursing home;
 - (e) attempt to mediate and resolve any dispute between a resident and the licensee;
 - (f) attend meetings of the residents' council and report on its activities to the residents' council;
 - (g) report to the Minister any concerns and recommendations that in its opinion or in the opinion of the residents' council ought to be brought to the Minister's attention; and
 - (h) carry out any other functions prescribed by the regulations.

17f.—(1) The Minister, with the consent of a committee, Residents' council advisor may appoint a residents' council advisor to assist the committee in carrying out its responsibilities.

Idem

(2) In carrying out his or her duties, a residents' council advisor shall take instructions from and report to the committee.

Entry and inspection

(3) A residents' council advisor at any time may enter upon the premises of a nursing home for the purpose of meeting with a resident or a member of the residents' council or both and subject to subsection (4) the advisor, where instructed by the committee to make such an inspection, may enter upon the premises of the nursing home and is entitled to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations.

Consent of resident

(4) A residents' council advisor is not entitled to free access to a record that relates to a particular resident without the consent of that resident or, where the resident is unable to consent, of the legal representative of the resident.

Idem

(5) No person shall refuse entry to a nursing home to a residents' council advisor or obstruct a residents' council advisor or withhold or destroy, conceal or refuse to furnish any information or thing required by a residents' council advisor for the purpose of an inspection.

Licensee to co-operate

17g. The licensee shall co-operate with the residents' council, the committee and the residents' council advisor and shall provide the information, including financial information, and assistance to them provided for by the regulations.

Committee, etc., not personally liable

17h. No proceeding shall be commenced against a member of a committee or a residents' council advisor for any act done in accordance with section 17e or 17f, unless the act is done maliciously or without reasonable grounds.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Liability of licensee

19.—(1) In addition to any other liability for an offence under this Act or the regulations, the licensee is guilty of an offence for the contravention of any provision of this Act except subsection 17a (1) or of the regulations that creates an obligation in respect of a nursing home,

- (a) without imposing a duty on a specified person to carry it out; or

(b) by imposing a duty on a specified person other than the licensee to carry it out.

(2) Notwithstanding subsection (1), a licensee is guilty of an offence under subsection (1) if the licensee contravenes subsection 17a (1). Idem

19a. Any person who contravenes any provision of this Act or the regulations, except subsection 12 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for each subsequent offence. Penalty

19b.—(1) Where a party to a proceeding under section 19 or 19a wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the party may apply to a provincial judge for an order appointing a justice of the peace to attend upon the witness and to take the evidence of the witness under oath. Evidence of disabled resident

(2) Where a party to a proceeding before the Board under this Act wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness. Idem

(3) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the resident is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding. Medical report sufficient proof

(4) A person shall not take evidence from a resident under subsection (1) or (2) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the resident. Opportunity to examine

(5) A transcript of the evidence of a resident taken under subsection (1) and certified as correct by the person who recorded it may be read in evidence in a proceeding under this Act. Transcript as evidence

17.—(1) Clause 20 (j) of the said Act is amended by adding at the end thereof “and governing their form and content”.

(2) Section 20 of the said Act is amended by adding thereto the following clauses:

- (ma) respecting the form and content of requests for proposals for the issuing of nursing home licenses;
-
- (ta) designating services to be provided to residents by licensees for which no more than a prescribed amount may be charged and prescribing that amount;
- (tb) prescribing matters to be included in a financial statement for the operation of a nursing home;
- (tc) respecting the establishment and conduct of residents' councils;
- (td) prescribing additional functions of a committee;
- (te) respecting the information, financial information and assistance a licensee shall give to a residents' council, a committee and a residents' council advisor.

Commence-
ment

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

Short title

19. The short title of this Act is the *Nursing Homes Amendment Act, 1987*.

Bill 176

An Act to amend the Nursing Homes Act

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 4th, 1987
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

The Bill provides that the fundamental principle to be applied in interpreting the Act is that a nursing home is primarily the home of its residents. The Bill also sets out a residents' bill of rights and provides for its enforcement.

The Minister is given discretion to consider the effect of the concentration of ownership of nursing homes and the balance between profit oriented and non-profit oriented nursing homes in deciding whether to grant a nursing home licence.

The Bill permits the Director to undertake to issue a licence to an applicant for a licence subject to the applicant satisfying specified conditions.

The Act now prohibits transfers of licences. The Bill regulates the surrender of licences and their issuance to new licensees and provides for the scrutiny of transfers by indirect means and share transfers of corporations that own licences.

The Bill provides a mechanism for the public to make submissions to the Director before the Director makes a decision concerning the issue, reissue or transfer of licences. It also provides for public meetings to be held concerning these matters.

The Bill requires persons other than residents who suspect that a resident has or may suffer harm as a result of unlawful conduct, neglect or improper or incompetent care or treatment to report that belief to the Director.

The Bill provides for the establishment in each nursing home of a residents' council, composed of residents or their representatives and persons appointed as community members. The residents' council is to advise residents, to assist residents in dealings with licensees, to review the operations of nursing homes and to report their concerns or recommendations to the Minister. The Minister is authorized to hire residents' council assistants to assist residents' councils.

The Bill provides that licensees shall post statements respecting the operation and financial affairs of the nursing homes.

A number of other amendments, including housekeeping amendments, are included in the Bill.

Bill 176

1987

An Act to amend the Nursing Homes Act

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

1.—(1) Section 1 of the *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 55, section 223, is further amended by adding thereto the following clauses:

(ba) “equity share” means a share of a class of shares of a corporation that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

(j) “security interest” means an agreement between a person and a licensee that secures the licensee’s payment or performance of an obligation by giving the person an interest in the licence.

(2) The said section 1 is further amended by adding thereto the following subsections:

(2) A person shall be deemed to have a controlling interest in a corporation if the person alone or with an associate directly or indirectly beneficially owns or controls,

(a) issued and outstanding equity shares in the corporation in an amount to permit the person to direct the management and policies of the corporation; or

(b) 10 per cent or more of the issued and outstanding equity shares in the corporation.

(3) One person shall be deemed to be an associate of another person if,

Controlling
interest

Associates

- (a) one person is a corporation of which the other person is an officer or director;
- (b) one person is a partnership of which the other person is a partner;
- (c) one person is a corporation that is controlled directly or indirectly by the other person;
- (d) both persons are corporations and one person is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other person;
- (e) both persons are members of a voting trust where the trust relates to shares of a corporation;
- ▼ (f) one person is the father, mother, brother, sister, child or spouse of the other person or is another relative who has the same home as the other person; or ▲
- (g) both persons are associates within the meaning of clauses (a) to (f) of the same person.

Calculating
shares

(4) In calculating the total number of equity shares of a corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as having the number of shares equal to the total number of votes it carries.

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

Fundamental
principle

1a.—(1) The fundamental principle to be applied in the interpretation of this Act and the regulations is that a nursing home is primarily the home of its residents and as such it is to be operated in such a way that the physical, psychological, social, cultural and spiritual needs of each of its residents are adequately met and that its residents are given the opportunity to contribute, in accordance with their ability, to the physical, psychological, social, cultural and spiritual needs of others.

Residents'
bill of
rights

▼ (2) Every licensee shall ensure that the following rights of residents are fully respected and promoted:

1. Every resident has the right to be treated with courtesy and respect and in a way that fully recognizes the resident's dignity and individuality and to be free from mental and physical abuse.
2. Every resident has the right to be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
3. Every resident has the right to be told who is responsible for and who is providing the resident's direct care.
4. Every resident has the right to be afforded privacy in treatment and in caring for his or her personal needs.
5. Every resident has the right to keep in his or her room and display personal possessions, pictures and furnishings in keeping with safety requirements and other residents' rights.
6. Every resident has the right,
 - i. to be informed of his or her medical condition, treatment and proposed course of treatment,
 - ii. to give or refuse consent to treatment, including medication, in accordance with the law and to be informed of the consequences of giving or refusing consent,
 - iii. to have the opportunity to participate fully in making any decision and obtaining an independent medical opinion concerning any aspect of his or her care, including any decision concerning his or her admission, discharge or transfer to or from a nursing home, and
 - iv. to have his or her medical records kept confidential in accordance with the law.
7. Every resident has the right to receive reactivation and assistance towards independence consistent with his or her requirements.
8. Every resident who is being considered for restraints has the right to be fully informed about

- the procedures and the consequences of receiving or refusing them.
9. Every resident has the right to communicate in confidence, to receive visitors of his or her choice and to consult in private with any person without interference.
 10. Every resident whose death is likely to be imminent has the right to have members of the resident's family present twenty-four hours per day.
 11. Every resident has the right to designate a person to receive information concerning any transfer or emergency hospitalization of the resident and where a person is so designated to have that person so informed forthwith.
 12. Every resident has the right to exercise the rights of a citizen and to raise concerns or recommend changes in policies and services on behalf of himself or herself or others to the residents' council, nursing home staff, government officials or any other person inside or outside the nursing home, without fear of restraint, interference, coercion, discrimination or reprisal.
 13. Every resident has the right to form friendships, to enjoy relationships and to participate in the residents' council.
 14. Every resident has the right to meet privately with his or her spouse in a room that assures privacy and where both spouses are residents in the same nursing home, they have a right to share a room according to their wishes, if an appropriate room is available.
 15. Every resident has a right to pursue social, cultural, religious and other interests, to develop his or her potential and to be given reasonable provisions by the nursing home to accommodate these pursuits.
 16. Every resident has the right to be informed in writing of any law, rule or policy affecting the operation of the nursing home and of the procedures for initiating complaints.
 17. Every resident has the right to manage his or her own financial affairs where the resident is able to do

so, and where the resident's financial affairs are managed by the nursing home, to receive a quarterly accounting of any transactions undertaken on his or her behalf and to be assured that the resident's property is managed solely on the resident's behalf.

18. Every resident has the right to live in a safe and clean environment.
19. Every resident has the right to be given access to protected areas outside the nursing home in order to enjoy outdoor activity, unless the physical setting makes this impossible.

(3) Without restricting the generality of subsection (1), this Act and the regulations are to be interpreted so as to advance the objective that the resident's rights set out in subsection (2) be respected.

Further
guide to
interpretation

(4) There shall be a written contract relating to the admission of every resident to a nursing home.

Written
contract

(5) A contract entered into in accordance with subsection (4) or (8) shall include,

Provisions
to be
included

- (a) a statement of the rights of the resident under subsection (2) and a statement by the licensee agreeing to respect and promote those rights;
- (b) the information necessary to enable the resident to make a complaint regarding the nursing home to the Ministry;
- (c) any agreement for additional services and the charges for those services; and
- (d) the name and address of the person who will act, if necessary, as the representative of the resident for the purposes of this Act and the regulations.

(6) A contract entered into in accordance with subsection (4), (8) or (9) shall be reviewed annually by the resident or the resident's representative and the licensee.

Annual
review

(7) Every licensee shall post a copy of subsections (1), (2), (4), (5) and (6) in a prominent place in the nursing home.

Posting of
information

(8) Subject to subsection (9), every licensee shall, within ninety days after the coming into force of this Act, enter into

Transition

a written contract with every person who is a resident at that time and has not entered into a contract under subsection (4), relating to the services provided by the nursing home.

Idem

(9) Where either party described in subsection (8) refuses to enter into a written contract, the licensee shall note that refusal in the resident's records and a contract between the licensee and the resident shall be deemed to have been made containing the provisions enumerated in clauses (5) (a) and (b) and, with the concurrence of the resident, containing the provisions enumerated in clauses (5) (c) and (d). ▲

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “subsection (2)” in the first line and inserting in lieu thereof “the following subsections”.

(2) Subsection 4 (2) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(3) Subsection 4 (3) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(4) Subclause 4 (4) (d) (ii) of the said Act is amended by striking out “or” and inserting in lieu thereof “and”.

(5) Section 4 of the said Act is amended by adding thereto the following subsections:

Idem

(4a) In considering under subsection (2) whether it is in the public interest to grant a licence to establish, operate or maintain a nursing home in an area, the Minister shall also take into account,

▼
(a) the effect that granting the licence would have on the concentration of ownership of nursing homes,

(i) in the area,

(ii) in the area and any other area, or

(iii) in Ontario; and

(b) the effect that granting the licence would have on the balance between non-profit and profit-oriented nursing homes,

(i) in the area,

(ii) in the area and any other area, or

(iii) in Ontario.

(4b) For the purpose of clause (4a) (b), the Minister shall announce, annually, in the Legislature the desired balance between non-profit and profit-oriented nursing homes. ^{Idem} ▲

(6) Subsection 4 (5) of the said Act is repealed and the following substituted therefor:

(5) Subject to section 7, the Director may refuse to issue a licence where in the Director's opinion, ^{Grounds for refusal}

- (a) the proposed nursing home or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will not be operated in accordance with the law and with honesty and integrity;
- (c) the applicant or, where the applicant is a corporation, its officers or directors or the persons with a controlling interest in it are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services; or
- (d) the past conduct of the applicant, or where the applicant is a corporation, of its officers, directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will be operated in a manner that is prejudicial to the health, safety or welfare of its residents.

(7) Subsection 4 (8) of the said Act is repealed.

4. The said Act is further amended by adding thereto the following sections:

4a.—(1) The Director may undertake to issue a licence to an applicant on condition that the applicant agrees to satisfy the conditions specified by the Director. ^{Undertake to issue licence}

Issue licence,
if conditions
met

(2) Where the Director determines that the applicant has complied with the specified conditions, the Director shall issue the licence.

Notice
to cancel
undertaking

(3) Where the Director determines that the applicant has not complied with the specified conditions, the Director by written notice to the applicant may propose to cancel the undertaking.

Request
for review

(4) The applicant may submit to the Minister a written request for review asking that the Minister extend the undertaking and amend its conditions.

Minister's
decision

(5) Where the Minister receives a request for review within fifteen days after delivery of the notice under subsection (3), the Minister may extend the undertaking and amend its conditions or may cancel the undertaking.

Undertaking
cancelled

(6) Where the Minister does not receive a request for review within fifteen days after delivery of the notice under subsection (3), the undertaking shall be deemed to be cancelled.

Surrender
and issue
of licence

4b.—(1) Where a licensee notifies the Director that the licensee intends to surrender a licence to the Director on condition that the Director issue in its place a licence to a specified person, the specified person may apply for the issuance of the licence under this Act.

Idem

(2) Subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications to an application for a licence under subsection (1).

Idem

(3) Upon receiving notice that the Director intends to approve an application under subsection (1), the licensee shall surrender the licence and the Director shall issue a licence to the applicant.

Share
transfer
R.S.O. 1980,
c. 466

4c.—(1) Where a corporation that is a private company as defined in the *Securities Act* is a licensee, it shall not permit an issue or transfer of equity shares of its capital stock that has the effect of changing the ownership or controlling interest in the corporation without the prior approval of the Director.

Idem

(2) In deciding whether to approve an issue or a transfer of shares under subsection (1), the Director shall treat the corporation as proposed to be constituted after the transfer as if it were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

4d.—(1) Where a licensee is a corporation, the licensee shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation. Duty of corporation to notify Director

(2) Where a corporation has an interest in a licence, and the corporation or its officers or directors have reason to believe that an issue or transfer of equity shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights results or may result in a person acquiring a controlling interest in the corporation, the person shall so notify the Director forthwith. Idem

(3) The Director annually, in writing, shall direct a corporation that has an interest in a licence or its officers or directors to provide the names and addresses of all of the officers and directors of the corporation and a statement concerning the ownership or beneficial ownership of equity shares of capital stock in the corporation, which statement shall contain the information that in the opinion of the Director is reasonably necessary to enable the Director to determine, Statement required

- (a) what persons, if any, have a controlling interest in the corporation; and
- (b) what persons, if any, own or beneficially own directly or indirectly the persons or a controlling interest in the persons mentioned in clause (a).

▼ (4) The Director may require the information described in subsection (3) to be provided more frequently than annually if, in the Director's opinion, it is reasonably necessary for the purposes set out in subsection (3). Idem ▲

4e.—(1) A person who has a security interest in a licence shall not exercise that interest without the approval of the Director if exercise of the interest would change the ownership or controlling interest in the licence. Exercise of security interest

(2) In deciding whether to approve an exercise of a security interest under subsection (1), the Director shall treat the person seeking to exercise the interest as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications. Matters to be considered

4f.—(1) A licensee shall not enter into a contract whose effect is to change the management of a nursing home or the ownership or controlling interest in a licence without the approval of the Director. Management contracts

Matters
to be
considered

(2) In deciding whether to approve a contract described in subsection (1), the Director shall treat the person who would take over the management of the nursing home or the ownership or controlling interest in the licence under the contract as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

No decision
without
public
submissions

4g.—(1) The Director shall not issue a licence, undertake to issue a licence under section 4a, reissue a licence under section 4b or approve an issue or transfer of shares under section 4c unless the public has been given notice of the request to do so and an opportunity to make written and oral submissions in accordance with this section.

Idem

(2) The Director shall not renew a licence unless the public has been given notice of the request to do so and an opportunity to make written submissions in accordance with this section.

Idem

(3) Without limiting the requirement on the Director to give the public an opportunity for oral submissions under subsection (1), the Director shall ensure that for each nursing home at least once in every five years the public is given notice of the request to carry out a matter described in subsection (1) or (2) and an opportunity to make oral submissions with respect to it in accordance with this section.

Public
meeting

(4) Where the opportunity for oral submissions is required under subsection (1) or (3), the Director shall cause a public meeting to be held concerning the request before making a decision and that meeting shall be held in the area where the nursing home is located.

Idem

(5) Notwithstanding subsection (4), where the public meeting concerns an issue or transfer of shares under section 4c in respect of a licensee that owns or controls more than one nursing home and those nursing homes are located in different areas, the Director shall determine where the meeting shall be held.

Idem

(6) If the Director is not able to chair the public meeting, the Director shall designate a representative of the Ministry to do so, and that representative shall prepare and give the Director a written report of the proceedings.

Notice

(7) At least thirty days before a decision in relation to a matter described in subsection (1) or (2) is to be made, the Director shall cause a notice inviting submissions to be published in a newspaper having general circulation in the area

where the nursing home is located or intended to be located and the notice shall,

- (a) contain an explanation of the request being made and the reasons for it;
- (b) state that any person may make written submissions to the Director concerning the request; and
- (c) state that the Director will consider any submissions before making a decision.

(8) Where the Director is required to hold a public meeting, the notice required by subsection (7) shall be published at least thirty days before the public meeting is held and shall also invite any person interested in making oral submissions to attend the meeting and express his or her opinions and recommendations concerning the request. Idem

(9) Where the request concerns an existing nursing home, the Director shall give a copy of the notice described in subsection (5) to the licensee and the licensee shall cause it to be posted in a conspicuous place in the nursing home. Idem

(10) The Director shall consider any submissions received under this section before making a decision concerning a matter described in subsection (1) or (2). Submissions to be considered

5. Clauses 5 (d) and (e) of the said Act are repealed and the following substituted therefor:

- (d) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is not being or will not be operated in accordance with the law and with honesty and integrity;
- (e) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the licensee, officers, directors or persons are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services;
- (f) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable

grounds for belief that the home is being operated or will be operated in a manner that is prejudicial to the health, safety or welfare of its residents;

- (g) the licensee has ceased operating the nursing home for a period of at least six months and is not taking reasonable steps to prepare the nursing home to re-open;
- (h) the licensee is a corporation described in subsection 4c (1) that has permitted an issue or transfer contrary to that subsection;
- (i) a corporation or its officers or directors have failed to make a report or statement to the Director, contrary to section 4d;
- (j) a person who has a security interest in a licence has exercised that interest contrary to subsection 4e (1) without the approval of the Director; or
- (k) the licensee has entered into a contract described in subsection 4f (1) without the approval of the Director.

6. Section 7 of the said Act is amended by adding thereto the following subsections:

Idem

(2a) A licensee who requires a hearing shall provide proof with the notice requiring a hearing that the licensee has mailed or delivered to the residents' council and has posted in a prominent place in the nursing home a copy of the Director's notice with written reasons therefor and a copy of the notice requiring a hearing.

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Opportunity to comply

(4a) Where the Board is required to hold a hearing, it shall proceed forthwith to hold the hearing unless the licensee satisfies the Board that the licensee has not been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence, that it would be just and reasonable to give the licensee that opportunity and that delaying the hearing will not adversely affect the health, safety or welfare of the residents.

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Exception for competition

(7) This section does not apply to an applicant seeking the issue or the undertaking for the issue of a licence where in the

Director's opinion another applicant better meets the Director's conditions for the issue of the licence. 

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

(1) The following are parties before the Board under this Parties
Act,

- (a) the Director;
- (b) the applicant or the licensee who has required the hearing;
-  (c) any resident or group of residents who request party status;
- (d) any employee or group of employees who request party status; and 
- (e) any other person the Board may specify.


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

(2) The Board may permit any person who is not a party Submissions
before it, including a resident, a representative of a resident, an employee of a nursing home or any other person who may be affected by its decision, to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent.

(3) Subsection 8 (3) of the said Act is amended by striking out "An applicant or licensee who is" in the first line and by inserting after "subsection (1)" in the second line "and a person who is permitted to make submissions to the Board under subsection (2)".

(4) Subsection 8 (7) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

 **8. Section 11 of the said Act is repealed.**

9.—(1) Subsection 12 (1) of the said Act is amended by striking out "legal representatives where the residents are unable so to do" in the fourth and fifth lines and inserting in lieu thereof "representatives". 

(2) Subsection 12 (3) of the said Act is amended by inserting after "revoked" in the first line "and the revocation becomes final or where the nursing home is otherwise being operated without a licence".

10.—(1) Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

Relief in special cases

(2) Where, in the opinion of the Director, special circumstances warrant reducing or increasing the facilities, services for residents or bed capacity required in an extended care unit under subsection (1), the Director may, by order, authorize the reducing or increasing of the said facilities, services for residents or bed capacity to such amount, for such times and under such conditions as are specified in the order.

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Agreement for extra services

(3) The Minister may enter into an agreement with a licensee for the provision of services in addition to those provided for under this Act and the regulations.

Notice of services

(4) Upon entering into an agreement with the Minister under subsection (3), the licensee shall give a written notice to the residents' council and to each resident or his or her representative of the additional services to be provided.

11.—(1) Section 14 of the said Act is amended by striking out "or" at the end of clause (b) and by adding thereto the following clauses:

- (d) for services entered into under an agreement described in subsection 13 (3), the amount provided for by the agreement;
- (e) for services not mentioned in clauses (a) through (c) that are designated by the regulations, the amount prescribed by the regulations; or
- (f) for services not mentioned in clauses (a) through (e), the amount provided for under written agreements for those services between the licensee and the individual residents.

(2) The said section 14 is further amended by adding thereto the following subsections:

Idem

(2) The Director may permit a licensee to charge a specific amount greater than the amount prescribed by the regulations

for a service described in clause (1) (e) where the licensee demonstrates to the Director that the actual cost of providing the service is greater than the amount prescribed by the regulations.

(3) The licensee shall provide each resident or representative of the resident with an itemized quarterly statement of moneys held by the nursing home on behalf of the resident and charges made to the resident for services not mentioned in clauses (1) (a) through (c).

Quarterly
statements

12. Section 15 of the said Act is repealed and the following substituted therefor:

15.—(1) Where any payment referred to in clause 14 (1) (a) or (d) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14 or the service has not been rendered or has been inadequately rendered, the Minister may,

Recovery
of excess
payment

- (a) withhold payments due to the licensee to recover the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) bring an action to recover from the licensee that amount, with costs, by action in a court of competent jurisdiction.

(2) Where any payment referred to in clause 14 (1) (b), (c), (e) or (f) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14, the service has not been rendered or has been inadequately rendered or in the case of a service described in clause 14 (1) (f) there was no written agreement, the Minister may,

Idem

- (a) order the licensee to pay back to the person from whom it was accepted the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) withhold payments due to the licensee for the purpose of recovering the excess payment or the amount for which no service or inadequate service was rendered and pay the amount recovered to the person from whom it was accepted by or on behalf of the licensee.

13.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

Inspection

(1) An inspector without a warrant at any time may enter upon the premises, including the business premises, of a nursing home to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

(2) Subsection 17 (2) of the said Act is amended by striking out "may at any reasonable time" in the fourth line and inserting in lieu thereof "without a warrant at any reasonable time may".

(3) Section 17 of the said Act is amended by adding thereto the following subsection:

Warrant

(2a) No inspector shall enter any room or place that is not in a nursing home and that is actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

(4) Subsection 17 (3) of the said Act is repealed and the following substituted therefor:

Powers on
inspection

(3) Upon an inspection under this section, the inspector,

- (a) is entitled at any reasonable time to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations;
- (b) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove any material referred to in clause (a) that relates to the purpose of the inspection in order to make a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person whose premises are being inspected;
- (c) may inspect the premises and operations;
- (d) may examine or test samples of substances to ensure that the regulations are being complied with; and
- (e) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may

remove a substance or a sample of a substance referred to in clause (d) in order to conduct further tests, for any purpose reasonably necessary to carry out effectively the purposes of this Act.

(3a) No person shall obstruct the inspector or withhold, destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection. Not to obstruct inspector

(5) Section 17 of the said Act is further amended by adding thereto the following subsection:

(4a) A certificate as to the result of any test that contains the name and a statement of the qualifications of the person who conducted the test and purports to be signed by that person is, without proof of the office or signature of that person, receivable in evidence as *prima facie* proof of the facts stated in the certificate for all purposes in any proceeding or prosecution if it has been served on any party or defendant to the proceeding or prosecution within a reasonable time before the proceeding or trial in which it is to be adduced. Admissibility of test results

(6) Subsection 17 (5) of the said Act is repealed.

14. The said Act is further amended by adding thereto the following sections:

17a.—(1) A person other than a resident who has reasonable grounds to suspect that a resident has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care or neglect shall forthwith report the suspicion and the information upon which it is based to the Director. Reporting of harm to resident

(2) No person shall dismiss, discipline or penalize another person because, Protection of persons reporting

- (a) a report has been made to the Director under subsection (1);
- (b) the Director has been advised of a breach of this Act or the regulations; or
- (c) the Director has been advised of any other matter concerning the care of a resident or the operation of a nursing home that the person advising believes ought to be reported to the Director,

unless the other person acts maliciously or without reasonable grounds.

- Idem (3) No person shall coerce, intimidate or attempt to coerce or intimidate another person because information described in clause (2) (a), (b) or (c) has been given to the Director. ▲
- Idem (4) No person shall include in a report to the Director under subsection (1) information the person knows to be false.
- Duty on practitioners
R.S.O. 1980, c. 196 (5) Notwithstanding that the information on which a report may be based is confidential or privileged, subsection (1) also applies to a legally qualified medical practitioner or a person registered under the *Health Disciplines Act* to practice a health discipline and no action for making the report shall be commenced against a practitioner or person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion.
- Privilege of solicitor (6) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client. ▼
- Director to investigate (7) The Director shall cause any report made under subsection (1) to be investigated forthwith after receiving it. ▲
- Licensee to forward complaints **17b.**—(1) A licensee shall forward forthwith on receipt to the Director any written complaint the licensee receives concerning the care of a resident or the operation of the nursing home. ▼
- Statement of licensee (2) The licensee shall include with a complaint forwarded under subsection (1) a statement of reply, setting out,
 - (a) what the licensee has done to remedy the complaint;
 - (b) what the licensee proposes to do to remedy the complaint and within what time the licensee proposes to do it; or
 - (c) that the licensee believes the complaint to be unfounded and the reasons for the belief.
- Director to investigate (3) The Director shall cause any complaint received under subsection (1) to be investigated forthwith after receiving it.
- Immediate investigation **17c.** Where the Director receives a report from any source that gives the Director reasonable grounds to believe that the health, safety or welfare of a resident may be at risk, the Director shall cause an investigation to be commenced and the nursing home in which that resident lives to be visited forthwith.

17d.—(1) A licensee shall, at the end of each year as defined in the regulations, prepare or cause to be prepared for each of the licensee's nursing homes statements of the operation and financial affairs of that nursing home during the preceding year. Financial reporting

(2) The statements shall include, Idem

- (a) a statement of the revenue received by the nursing home, or by the licensee in respect of the nursing home, from the Ministry, from residents and from other sources;
- (b) a statement, broken down by categories, of the expenditures of the nursing home, or of the licensee in respect of the nursing home, including,
 - (i) payments to or for the benefit of the licensee, persons associated with the licensee and persons who provide management or administrative services in respect of the nursing home,
 - (ii) expenditures in respect of staff salaries and benefits, broken down by categories of staff,
 - (iii) expenditures for food, housekeeping, laundry and other goods and services,
 - (iv) payments made and amounts charged or recorded for depreciation, debt carrying charges, rent, and business and realty taxes;
- (c) any other information respecting the operation and financial affairs of the nursing home that is prescribed by the regulations.

(3) Where a licensee alone or with associates owns or has a controlling interest in more than one nursing home, the statements required under subsection (1) shall include, in addition to statements prepared for each of the licensee's nursing homes, a consolidated statement of the operation and financial affairs of all of those nursing homes and that consolidated statement shall include the information described in subsection (2). Idem

(4) The statements shall be made in the form and manner prescribed by the regulations and shall be certified by the licensee's auditor. Idem

Statement to
be filed

(5) A licensee shall file the statements referred to in subsection (1) with the Minister within ninety days after the end of the licensee's fiscal year.

Posting
and public
inspection

(6) The licensee shall post a copy of the statements referred to in subsection (1) in a prominent place in the nursing home.

Residents'
council

17e.—(1) Whenever at least three persons who are either residents in a nursing home or representatives of residents so request, a residents' council shall be established for that nursing home.

Idem

(2) The residents' council shall be established and conducted in the manner provided for by the regulations.


Members

(3) Each resident, or where the resident is unable to participate, the resident's representative may be a member of the residents' council and, in addition, a person selected by the resident or the representative may be a member of the residents' council.

Idem

(4) The Minister, at the request of a residents' council, may appoint no more than three persons to be members of the residents' council and those persons shall serve as members at the pleasure of the residents' council.

Idem

(5) The persons appointed under subsection (4) shall be persons who live in the area in which the nursing home is located and who are not employed by and do not have a contractual relationship with the Ministry. 

Idem

(6) No licensee or where the licensee is a corporation, no officer, director or person with a controlling interest in it and no member of the staff of a nursing home shall be a member of a residents' council.

Obligation of
administrator

(7) Every administrator shall in respect of each nursing home that he has charge of, within ninety days of being licensed, convene a meeting of the residents or their representatives, to advise the residents that they have a right to form a residents' council.

Idem

(8) Where a residents' council is not established in a nursing home after the convening of a meeting under subsection (7), the administrator shall convene such a meeting at least once each year thereafter until a residents' council is established.

(9) Where a meeting is held under subsection (7) or (8), the administrator shall notify the Director within thirty days of the results of the meeting. Idem

(10) Where three or more residents or their representatives at any time express an interest to their administrator in forming a residents' council, the administrator shall forthwith notify the Director of the interest and assist the residents or their representatives in forming a council within sixty days of the request. Idem

17f. It is the function of a residents' council and it has the power to, Powers of residents' council

- (a) advise residents respecting their rights and obligations under this Act;
- (b) advise residents respecting the rights and obligations of the licensee under this Act;
- (c) meet regularly with the licensee to,
 - (i) review Ministry inspection reports,
 - (ii) review the allocation of money for food, supplies and services provided by the nursing home,
 - (iii) review the statements filed under section 17d when they are filed, and
 - (iv) review the operation of the nursing home;
- (d) attempt to mediate and resolve any dispute between a resident and the licensee; and
- (e) report to the Minister any concerns and recommendations that in its opinion ought to be brought to the Minister's attention.

17g.—(1) The Minister, with the consent of a residents' council, may appoint a residents' council assistant to assist the residents' council in carrying out its responsibilities. Residents' council assistant

(2) In carrying out his or her duties, a residents' council assistant shall take instructions from and report to the residents' council. Idem

Entry
not refused

(3) No person shall refuse entry to a nursing home to a residents' council assistant or obstruct a residents' council assistant.

Licensee
to
co-operate

17h. The licensee shall co-operate with the residents' council and the residents' council assistant and shall provide the information, including financial information, and assistance to them provided for by the regulations.

Committee,
etc., not
personally
liable

17i. No proceeding shall be commenced against a member of a residents' council or a residents' council assistant for any act done in accordance with section 17f, unless the act is done maliciously or without reasonable grounds.

15. Section 19 of the said Act is repealed and the following substituted therefor:

Liability
of licensee

19.—(1) In addition to any other liability for an offence under this Act or the regulations, the licensee is guilty of an offence for the contravention of any provision of this Act except subsection 17a (1) or of the regulations that creates an obligation in respect of a nursing home,

- (a) without imposing a duty on a specified person to carry it out; or
- (b) by imposing a duty on a specified person other than the licensee to carry it out.

Idem

(2) Notwithstanding subsection (1), a licensee is guilty of an offence under subsection (1) if the licensee contravenes subsection 17a (1).

Penalty

19a. Any person who contravenes any provision of this Act or the regulations, except subsection 12 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for each subsequent offence.

Evidence
of disabled
resident

19b.—(1) Where a party to a proceeding under section 19 or 19a wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the party may apply to a provincial judge for an order appointing a justice of the peace to attend upon the witness and to take the evidence of the witness under oath.

Idem

(2) Where a party to a proceeding before the Board under this Act wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is

unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

(3) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the resident is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Medical report sufficient proof

(4) A person shall not take evidence from a resident under subsection (1) or (2) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the resident.

Opportunity to examine

(5) A transcript of the evidence of a resident taken under subsection (1) and certified as correct by the person who recorded it may be read in evidence in a proceeding under this Act.

Transcript as evidence

16.—(1) Clause 20 (j) of the said Act is amended by adding at the end thereof “and governing their form and content”.

(2) Section 20 of the said Act is amended by adding thereto the following clauses:

(ma) respecting the form and content of requests for proposals for the issuing of nursing home licenses;

.

(ta) designating services to be provided to residents by licensees for which no more than a prescribed amount may be charged and prescribing that amount;

(tb) defining “year” for the purposes of subsection 17d (1) (financial reporting), prescribing other information respecting the operation and financial affairs of the nursing home for the purposes of clause 17d (2) (c), and prescribing the form and manner in which statements shall be made;

(tc) respecting the establishment and conduct of residents’ councils;

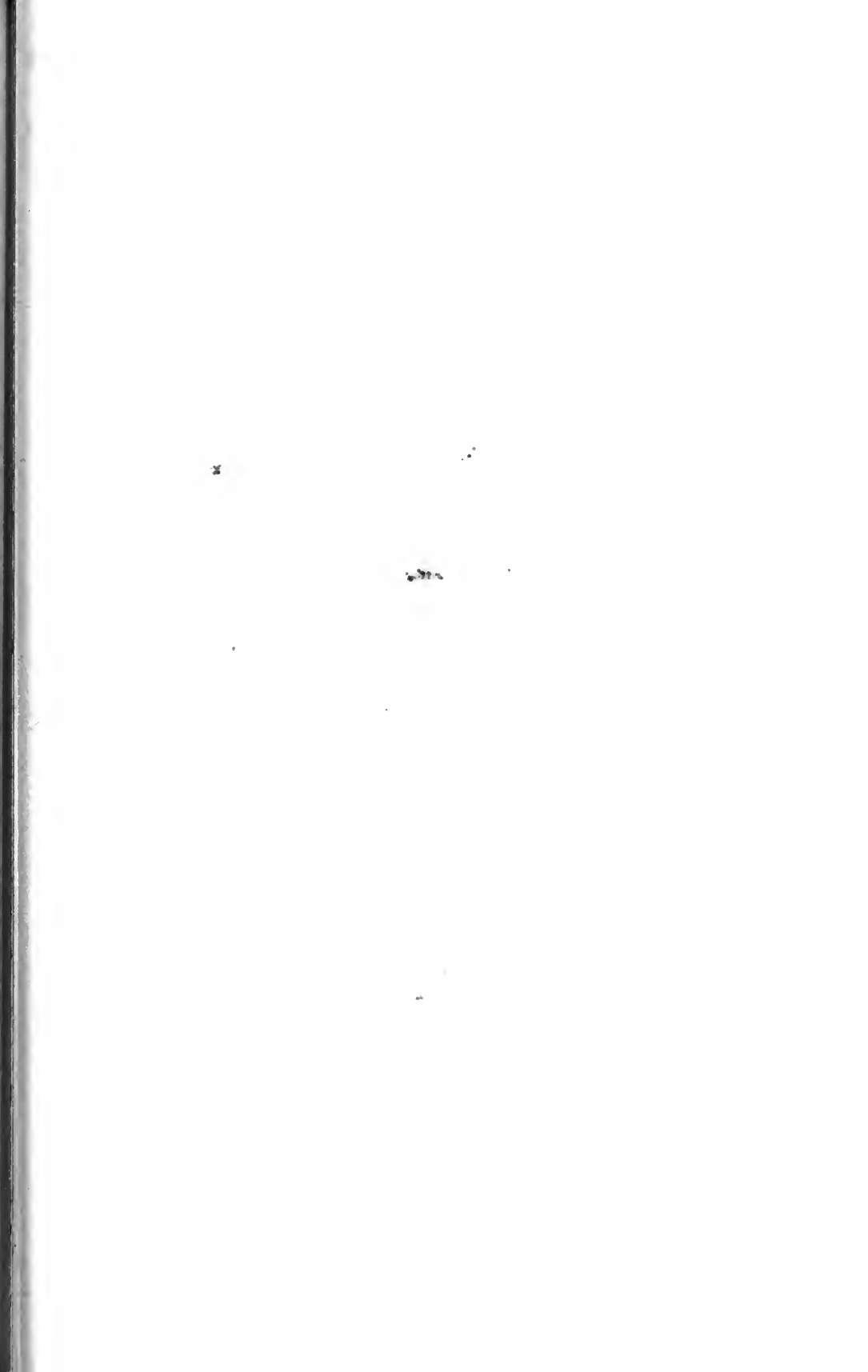
(td) respecting the information, financial information and assistance a licensee shall give to a residents’ council and a residents’ council assistant.

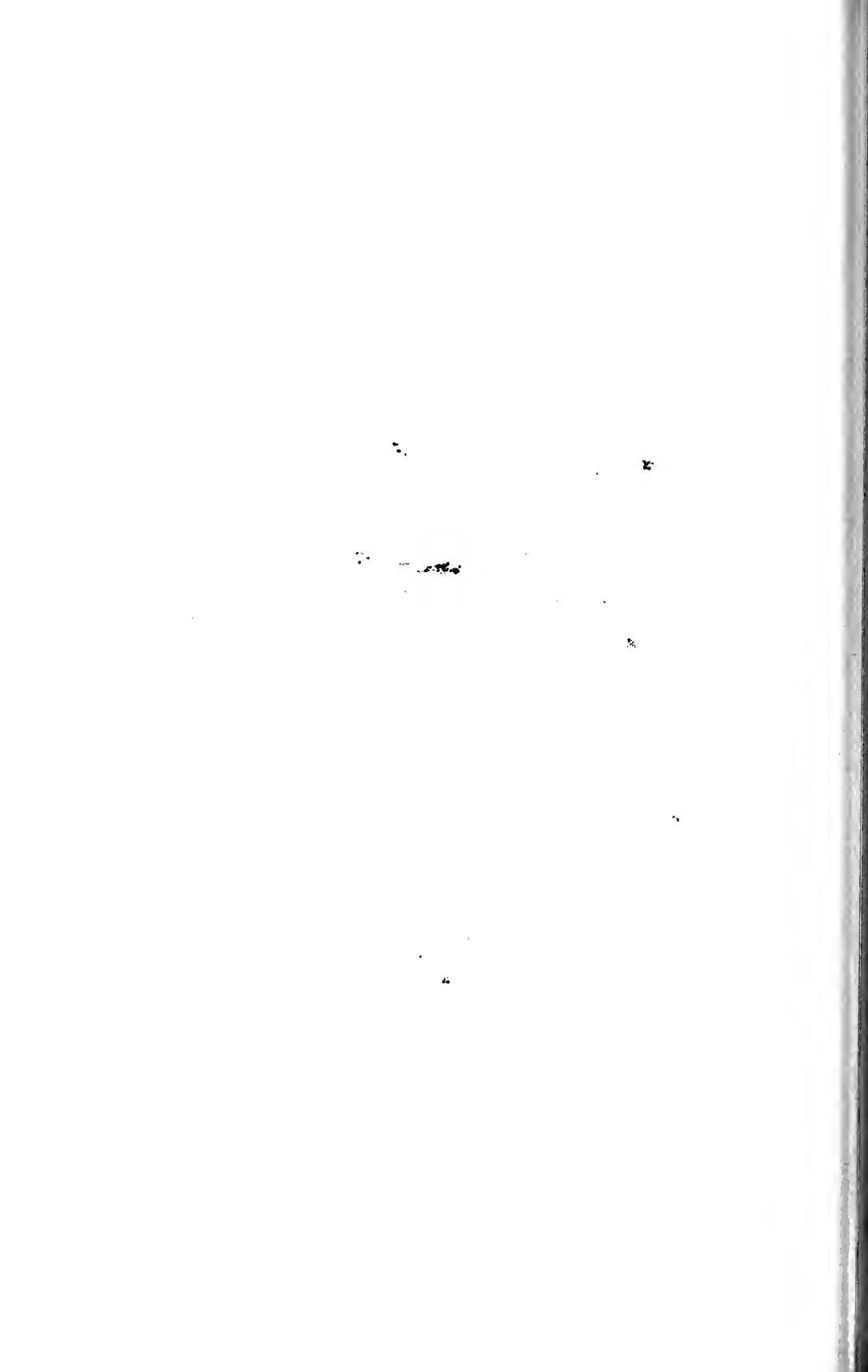
Commence-
ment

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

Short title

18. The short title of this Act is the *Nursing Homes Amendment Act, 1987*.





Bill 176

*(Chapter 20
Statutes of Ontario, 1987)*

An Act to amend the Nursing Homes Act

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 4th, 1987
<i>3rd Reading</i>	May 25th, 1987
<i>Royal Assent</i>	May 27th, 1987



Bill 176

1987

An Act to amend the Nursing Homes Act

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

1.—(1) Section 1 of the *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 55, section 223, is further amended by adding thereto the following clauses:

(ba) “equity share” means a share of a class of shares of a corporation that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

.

(j) “security interest” means an agreement between a person and a licensee that secures the licensee’s payment or performance of an obligation by giving the person an interest in the licence.

(2) The said section 1 is further amended by adding thereto the following subsections:

(2) A person shall be deemed to have a controlling interest in a corporation if the person alone or with an associate directly or indirectly beneficially owns or controls,

Controlling
interest

(a) issued and outstanding equity shares in the corporation in an amount to permit the person to direct the management and policies of the corporation; or

(b) 10 per cent or more of the issued and outstanding equity shares in the corporation.

(3) One person shall be deemed to be an associate of another person if,

Associates

- (a) one person is a corporation of which the other person is an officer or director;
- (b) one person is a partnership of which the other person is a partner;
- (c) one person is a corporation that is controlled directly or indirectly by the other person;
- (d) both persons are corporations and one person is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other person;
- (e) both persons are members of a voting trust where the trust relates to shares of a corporation;
- (f) one person is the father, mother, brother, sister, child or spouse of the other person or is another relative who has the same home as the other person; or
- (g) both persons are associates within the meaning of clauses (a) to (f) of the same person.

Calculating
shares

(4) In calculating the total number of equity shares of a corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as having the number of shares equal to the total number of votes it carries.

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

Fundamental
principle

1a.—(1) The fundamental principle to be applied in the interpretation of this Act and the regulations is that a nursing home is primarily the home of its residents and as such it is to be operated in such a way that the physical, psychological, social, cultural and spiritual needs of each of its residents are adequately met and that its residents are given the opportunity to contribute, in accordance with their ability, to the physical, psychological, social, cultural and spiritual needs of others.

Residents'
bill of
rights

(2) Every licensee shall ensure that the following rights of residents are fully respected and promoted:

1. Every resident has the right to be treated with courtesy and respect and in a way that fully recognizes the resident's dignity and individuality and to be free from mental and physical abuse.
2. Every resident has the right to be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
3. Every resident has the right to be told who is responsible for and who is providing the resident's direct care.
4. Every resident has the right to be afforded privacy in treatment and in caring for his or her personal needs.
5. Every resident has the right to keep in his or her room and display personal possessions, pictures and furnishings in keeping with safety requirements and other residents' rights.
6. Every resident has the right,
 - i. to be informed of his or her medical condition, treatment and proposed course of treatment,
 - ii. to give or refuse consent to treatment, including medication, in accordance with the law and to be informed of the consequences of giving or refusing consent,
 - iii. to have the opportunity to participate fully in making any decision and obtaining an independent medical opinion concerning any aspect of his or her care, including any decision concerning his or her admission, discharge or transfer to or from a nursing home, and
 - iv. to have his or her medical records kept confidential in accordance with the law.
7. Every resident has the right to receive reactivation and assistance towards independence consistent with his or her requirements.
8. Every resident who is being considered for restraints has the right to be fully informed about

the procedures and the consequences of receiving or refusing them.

9. Every resident has the right to communicate in confidence, to receive visitors of his or her choice and to consult in private with any person without interference.
10. Every resident whose death is likely to be imminent has the right to have members of the resident's family present twenty-four hours per day.
11. Every resident has the right to designate a person to receive information concerning any transfer or emergency hospitalization of the resident and where a person is so designated to have that person so informed forthwith.
12. Every resident has the right to exercise the rights of a citizen and to raise concerns or recommend changes in policies and services on behalf of himself or herself or others to the residents' council, nursing home staff, government officials or any other person inside or outside the nursing home, without fear of restraint, interference, coercion, discrimination or reprisal.
13. Every resident has the right to form friendships, to enjoy relationships and to participate in the residents' council.
14. Every resident has the right to meet privately with his or her spouse in a room that assures privacy and where both spouses are residents in the same nursing home, they have a right to share a room according to their wishes, if an appropriate room is available.
15. Every resident has a right to pursue social, cultural, religious and other interests, to develop his or her potential and to be given reasonable provisions by the nursing home to accommodate these pursuits.
16. Every resident has the right to be informed in writing of any law, rule or policy affecting the operation of the nursing home and of the procedures for initiating complaints.
17. Every resident has the right to manage his or her own financial affairs where the resident is able to do

so, and where the resident's financial affairs are managed by the nursing home, to receive a quarterly accounting of any transactions undertaken on his or her behalf and to be assured that the resident's property is managed solely on the resident's behalf.

18. Every resident has the right to live in a safe and clean environment.
19. Every resident has the right to be given access to protected areas outside the nursing home in order to enjoy outdoor activity, unless the physical setting makes this impossible.

(3) Without restricting the generality of subsection (1), this Act and the regulations are to be interpreted so as to advance the objective that the resident's rights set out in subsection (2) be respected. Further guide to interpretation

(4) There shall be a written contract relating to the admission of every resident to a nursing home. Written contract

(5) A contract entered into in accordance with subsection (4) or (8) shall include, Provisions to be included

- (a) a statement of the rights of the resident under subsection (2) and a statement by the licensee agreeing to respect and promote those rights;
- (b) the information necessary to enable the resident to make a complaint regarding the nursing home to the Ministry;
- (c) any agreement for additional services and the charges for those services; and
- (d) the name and address of the person who will act, if necessary, as the representative of the resident for the purposes of this Act and the regulations.

(6) A contract entered into in accordance with subsection (4), (8) or (9) shall be reviewed annually by the resident or the resident's representative and the licensee. Annual review

(7) Every licensee shall post a copy of subsections (1), (2), (4), (5) and (6) in a prominent place in the nursing home. Posting of information

(8) Subject to subsection (9), every licensee shall, within ninety days after the coming into force of this Act, enter into Transition

a written contract with every person who is a resident at that time and has not entered into a contract under subsection (4), relating to the services provided by the nursing home.

Idem

(9) Where either party described in subsection (8) refuses to enter into a written contract, the licensee shall note that refusal in the resident's records and a contract between the licensee and the resident shall be deemed to have been made containing the provisions enumerated in clauses (5) (a) and (b) and, with the concurrence of the resident, containing the provisions enumerated in clauses (5) (c) and (d).

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “subsection (2)” in the first line and inserting in lieu thereof “the following subsections”.

(2) Subsection 4 (2) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(3) Subsection 4 (3) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(4) Subclause 4 (4) (d) (ii) of the said Act is amended by striking out “or” and inserting in lieu thereof “and”.

(5) Section 4 of the said Act is amended by adding thereto the following subsections:

Idem

(4a) In considering under subsection (2) whether it is in the public interest to grant a licence to establish, operate or maintain a nursing home in an area, the Minister shall also take into account,

- (a) the effect that granting the licence would have on the concentration of ownership of nursing homes,
 - (i) in the area,
 - (ii) in the area and any other area, or
 - (iii) in Ontario; and
- (b) the effect that granting the licence would have on the balance between non-profit and profit-oriented nursing homes,
 - (i) in the area,
 - (ii) in the area and any other area, or

(iii) in Ontario.

(4b) For the purpose of clause (4a) (b), the Minister shall ^{Idem} announce, annually, in the Legislature the desired balance between non-profit and profit-oriented nursing homes.

(6) Subsection 4 (5) of the said Act is repealed and the following substituted therefor:

(5) Subject to section 7, the Director may refuse to issue a ^{Grounds for refusal} licence where in the Director's opinion,

- (a) the proposed nursing home or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will not be operated in accordance with the law and with honesty and integrity;
- (c) the applicant or, where the applicant is a corporation, its officers or directors or the persons with a controlling interest in it are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services; or
- (d) the past conduct of the applicant, or where the applicant is a corporation, of its officers, directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will be operated in a manner that is prejudicial to the health, safety or welfare of its residents.

(7) Subsection 4 (8) of the said Act is repealed.

4. The said Act is further amended by adding thereto the following sections:

4a.—(1) The Director may undertake to issue a licence to ^{Undertake to issue licence} an applicant on condition that the applicant agrees to satisfy the conditions specified by the Director.

- Issue licence, if conditions met (2) Where the Director determines that the applicant has complied with the specified conditions, the Director shall issue the licence.
- Notice to cancel undertaking (3) Where the Director determines that the applicant has not complied with the specified conditions, the Director by written notice to the applicant may propose to cancel the undertaking.
- Request for review (4) The applicant may submit to the Minister a written request for review asking that the Minister extend the undertaking and amend its conditions.
- Minister's decision (5) Where the Minister receives a request for review within fifteen days after delivery of the notice under subsection (3), the Minister may extend the undertaking and amend its conditions or may cancel the undertaking.
- Undertaking cancelled (6) Where the Minister does not receive a request for review within fifteen days after delivery of the notice under subsection (3), the undertaking shall be deemed to be cancelled.
- Surrender and issue of licence **4b.**—(1) Where a licensee notifies the Director that the licensee intends to surrender a licence to the Director on condition that the Director issue in its place a licence to a specified person, the specified person may apply for the issuance of the licence under this Act.
- Idem (2) Subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications to an application for a licence under subsection (1).
- Idem (3) Upon receiving notice that the Director intends to approve an application under subsection (1), the licensee shall surrender the licence and the Director shall issue a licence to the applicant.
- Share transfer R.S.O. 1980, c. 466 **4c.**—(1) Where a corporation that is a private company as defined in the *Securities Act* is a licensee, it shall not permit an issue or transfer of equity shares of its capital stock that has the effect of changing the ownership or controlling interest in the corporation without the prior approval of the Director.
- Idem (2) In deciding whether to approve an issue or a transfer of shares under subsection (1), the Director shall treat the corporation as proposed to be constituted after the transfer as if it were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

4d.—(1) Where a licensee is a corporation, the licensee shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation. Duty of corporation to notify Director

(2) Where a corporation has an interest in a licence, and the corporation or its officers or directors have reason to believe that an issue or transfer of equity shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights results or may result in a person acquiring a controlling interest in the corporation, the person shall so notify the Director forthwith. Idem

(3) The Director annually, in writing, shall direct a corporation that has an interest in a licence or its officers or directors to provide the names and addresses of all of the officers and directors of the corporation and a statement concerning the ownership or beneficial ownership of equity shares of capital stock in the corporation, which statement shall contain the information that in the opinion of the Director is reasonably necessary to enable the Director to determine, Statement required

- (a) what persons, if any, have a controlling interest in the corporation; and
- (b) what persons, if any, own or beneficially own directly or indirectly the persons or a controlling interest in the persons mentioned in clause (a).

(4) The Director may require the information described in subsection (3) to be provided more frequently than annually if, in the Director's opinion, it is reasonably necessary for the purposes set out in subsection (3). Idem

4e.—(1) A person who has a security interest in a licence shall not exercise that interest without the approval of the Director if exercise of the interest would change the ownership or controlling interest in the licence. Exercise of security interest

(2) In deciding whether to approve an exercise of a security interest under subsection (1), the Director shall treat the person seeking to exercise the interest as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications. Matters to be considered

4f.—(1) A licensee shall not enter into a contract whose effect is to change the management of a nursing home or the ownership or controlling interest in a licence without the approval of the Director. Management contracts

Matters
to be
considered

(2) In deciding whether to approve a contract described in subsection (1), the Director shall treat the person who would take over the management of the nursing home or the ownership or controlling interest in the licence under the contract as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

No decision
without
public
submissions

4g.—(1) The Director shall not issue a licence, undertake to issue a licence under section 4a, reissue a licence under section 4b or approve an issue or transfer of shares under section 4c unless the public has been given notice of the request to do so and an opportunity to make written and oral submissions in accordance with this section.

Idem

(2) The Director shall not renew a licence unless the public has been given notice of the request to do so and an opportunity to make written submissions in accordance with this section.

Idem

(3) Without limiting the requirement on the Director to give the public an opportunity for oral submissions under subsection (1), the Director shall ensure that for each nursing home at least once in every five years the public is given notice of the request to carry out a matter described in subsection (1) or (2) and an opportunity to make oral submissions with respect to it in accordance with this section.

Public
meeting

(4) Where the opportunity for oral submissions is required under subsection (1) or (3), the Director shall cause a public meeting to be held concerning the request before making a decision and that meeting shall be held in the area where the nursing home is located.

Idem

(5) Notwithstanding subsection (4), where the public meeting concerns an issue or transfer of shares under section 4c in respect of a licensee that owns or controls more than one nursing home and those nursing homes are located in different areas, the Director shall determine where the meeting shall be held.

Idem

(6) If the Director is not able to chair the public meeting, the Director shall designate a representative of the Ministry to do so, and that representative shall prepare and give the Director a written report of the proceedings.

Notice

(7) At least thirty days before a decision in relation to a matter described in subsection (1) or (2) is to be made, the Director shall cause a notice inviting submissions to be published in a newspaper having general circulation in the area

where the nursing home is located or intended to be located and the notice shall,

- (a) contain an explanation of the request being made and the reasons for it;
- (b) state that any person may make written submissions to the Director concerning the request; and
- (c) state that the Director will consider any submissions before making a decision.

(8) Where the Director is required to hold a public meeting, the notice required by subsection (7) shall be published at least thirty days before the public meeting is held and shall also invite any person interested in making oral submissions to attend the meeting and express his or her opinions and recommendations concerning the request. Idem

(9) Where the request concerns an existing nursing home, the Director shall give a copy of the notice described in subsection (5) to the licensee and the licensee shall cause it to be posted in a conspicuous place in the nursing home. Idem

(10) The Director shall consider any submissions received under this section before making a decision concerning a matter described in subsection (1) or (2). Submissions to be considered

5. Clauses 5 (d) and (e) of the said Act are repealed and the following substituted therefor:

- (d) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is not being or will not be operated in accordance with the law and with honesty and integrity;
- (e) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the licensee, officers, directors or persons are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services;
- (f) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable

grounds for belief that the home is being operated or will be operated in a manner that is prejudicial to the health, safety or welfare of its residents;

- (g) the licensee has ceased operating the nursing home for a period of at least six months and is not taking reasonable steps to prepare the nursing home to re-open;
- (h) the licensee is a corporation described in subsection 4c (1) that has permitted an issue or transfer contrary to that subsection;
- (i) a corporation or its officers or directors have failed to make a report or statement to the Director, contrary to section 4d;
- (j) a person who has a security interest in a licence has exercised that interest contrary to subsection 4e (1) without the approval of the Director; or
- (k) the licensee has entered into a contract described in subsection 4f (1) without the approval of the Director.

6. Section 7 of the said Act is amended by adding thereto the following subsections:

Idem

(2a) A licensee who requires a hearing shall provide proof with the notice requiring a hearing that the licensee has mailed or delivered to the residents' council and has posted in a prominent place in the nursing home a copy of the Director's notice with written reasons therefor and a copy of the notice requiring a hearing.

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Opportunity to comply

(4a) Where the Board is required to hold a hearing, it shall proceed forthwith to hold the hearing unless the licensee satisfies the Board that the licensee has not been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence, that it would be just and reasonable to give the licensee that opportunity and that delaying the hearing will not adversely affect the health, safety or welfare of the residents.

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Exception for competition

(7) This section does not apply to an applicant seeking the issue or the undertaking for the issue of a licence where in the

Director's opinion another applicant better meets the Director's conditions for the issue of the licence.

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

(1) The following are parties before the Board under this Act, Parties

- (a) the Director;
- (b) the applicant or the licensee who has required the hearing;
- (c) any resident or group of residents who request party status;
- (d) any employee or group of employees who request party status; and
- (e) any other person the Board may specify.

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

(2) The Board may permit any person who is not a party Submissions before it, including a resident, a representative of a resident, an employee of a nursing home or any other person who may be affected by its decision, to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent.

(3) Subsection 8 (3) of the said Act is amended by striking out "An applicant or licensee who is" in the first line and by inserting after "subsection (1)" in the second line "and a person who is permitted to make submissions to the Board under subsection (2)".

(4) Subsection 8 (7) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

8. Section 11 of the said Act is repealed.

9.—(1) Subsection 12 (1) of the said Act is amended by striking out "legal representatives where the residents are unable so to do" in the fourth and fifth lines and inserting in lieu thereof "representatives".

(2) Subsection 12 (3) of the said Act is amended by inserting after "revoked" in the first line "and the revocation becomes final or where the nursing home is otherwise being operated without a licence".

10.—(1) Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

Relief in
special
cases

(2) Where, in the opinion of the Director, special circumstances warrant reducing or increasing the facilities, services for residents or bed capacity required in an extended care unit under subsection (1), the Director may, by order, authorize the reducing or increasing of the said facilities, services for residents or bed capacity to such amount, for such times and under such conditions as are specified in the order.

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Agreement
for extra
services

(3) The Minister may enter into an agreement with a licensee for the provision of services in addition to those provided for under this Act and the regulations.

Notice of
services

(4) Upon entering into an agreement with the Minister under subsection (3), the licensee shall give a written notice to the residents' council and to each resident or his or her representative of the additional services to be provided.

11.—(1) Section 14 of the said Act is amended by striking out "or" at the end of clause (b) and by adding thereto the following clauses:

- (d) for services entered into under an agreement described in subsection 13 (3), the amount provided for by the agreement;
- (e) for services not mentioned in clauses (a) through (c) that are designated by the regulations, the amount prescribed by the regulations; or
- (f) for services not mentioned in clauses (a) through (e), the amount provided for under written agreements for those services between the licensee and the individual residents.

(2) The said section 14 is further amended by adding thereto the following subsections:

Idem

(2) The Director may permit a licensee to charge a specific amount greater than the amount prescribed by the regulations

for a service described in clause (1) (e) where the licensee demonstrates to the Director that the actual cost of providing the service is greater than the amount prescribed by the regulations.

(3) The licensee shall provide each resident or representative of the resident with an itemized quarterly statement of moneys held by the nursing home on behalf of the resident and charges made to the resident for services not mentioned in clauses (1) (a) through (c).

Quarterly
statements

12. Section 15 of the said Act is repealed and the following substituted therefor:

15.—(1) Where any payment referred to in clause 14 (1) (a) or (d) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14 or the service has not been rendered or has been inadequately rendered, the Minister may,

Recovery
of excess
payment

- (a) withhold payments due to the licensee to recover the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) bring an action to recover from the licensee that amount, with costs, by action in a court of competent jurisdiction.

(2) Where any payment referred to in clause 14 (1) (b), (c), (e) or (f) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14, the service has not been rendered or has been inadequately rendered or in the case of a service described in clause 14 (1) (f) there was no written agreement, the Minister may,

Idem

- (a) order the licensee to pay back to the person from whom it was accepted the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) withhold payments due to the licensee for the purpose of recovering the excess payment or the amount for which no service or inadequate service was rendered and pay the amount recovered to the person from whom it was accepted by or on behalf of the licensee.

13.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

Inspection

(1) An inspector without a warrant at any time may enter upon the premises, including the business premises, of a nursing home to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

(2) Subsection 17 (2) of the said Act is amended by striking out "may at any reasonable time" in the fourth line and inserting in lieu thereof "without a warrant at any reasonable time may".

(3) Section 17 of the said Act is amended by adding thereto the following subsection:

Warrant

(2a) No inspector shall enter any room or place that is not in a nursing home and that is actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

(4) Subsection 17 (3) of the said Act is repealed and the following substituted therefor:

Powers on inspection

- (3) Upon an inspection under this section, the inspector,
- (a) is entitled at any reasonable time to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations;
 - (b) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove any material referred to in clause (a) that relates to the purpose of the inspection in order to make a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person whose premises are being inspected;
 - (c) may inspect the premises and operations;
 - (d) may examine or test samples of substances to ensure that the regulations are being complied with; and
 - (e) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may

remove a substance or a sample of a substance referred to in clause (d) in order to conduct further tests, for any purpose reasonably necessary to carry out effectively the purposes of this Act.

(3a) No person shall obstruct the inspector or withhold, destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection. Not to obstruct inspector

(5) Section 17 of the said Act is further amended by adding thereto the following subsection:

(4a) A certificate as to the result of any test that contains the name and a statement of the qualifications of the person who conducted the test and purports to be signed by that person is, without proof of the office or signature of that person, receivable in evidence as *prima facie* proof of the facts stated in the certificate for all purposes in any proceeding or prosecution if it has been served on any party or defendant to the proceeding or prosecution within a reasonable time before the proceeding or trial in which it is to be adduced. Admissibility of test results

(6) Subsection 17 (5) of the said Act is repealed.

14. The said Act is further amended by adding thereto the following sections:

17a.—(1) A person other than a resident who has reasonable grounds to suspect that a resident has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care or neglect shall forthwith report the suspicion and the information upon which it is based to the Director. Reporting of harm to resident

(2) No person shall dismiss, discipline or penalize another person because, Protection of persons reporting

- (a) a report has been made to the Director under subsection (1);
- (b) the Director has been advised of a breach of this Act or the regulations; or
- (c) the Director has been advised of any other matter concerning the care of a resident or the operation of a nursing home that the person advising believes ought to be reported to the Director,

unless the other person acts maliciously or without reasonable grounds.

Idem (3) No person shall coerce, intimidate or attempt to coerce or intimidate another person because information described in clause (2) (a), (b) or (c) has been given to the Director.

Idem (4) No person shall include in a report to the Director under subsection (1) information the person knows to be false.

Duty on practitioners (5) Notwithstanding that the information on which a report may be based is confidential or privileged, subsection (1) also applies to a legally qualified medical practitioner or a person registered under the *Health Disciplines Act* to practice a health discipline and no action for making the report shall be commenced against a practitioner or person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion.

R.S.O. 1980, c. 196

Privilege of solicitor (6) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client.

Director to investigate (7) The Director shall cause any report made under subsection (1) to be investigated forthwith after receiving it.

Licensee to forward complaints **17b.**—(1) A licensee shall forward forthwith on receipt to the Director any written complaint the licensee receives concerning the care of a resident or the operation of the nursing home.

Statement of licensee (2) The licensee shall include with a complaint forwarded under subsection (1) a statement of reply, setting out,

- (a) what the licensee has done to remedy the complaint;
- (b) what the licensee proposes to do to remedy the complaint and within what time the licensee proposes to do it; or
- (c) that the licensee believes the complaint to be unfounded and the reasons for the belief.

Director to investigate (3) The Director shall cause any complaint received under subsection (1) to be investigated forthwith after receiving it.

Immediate investigation **17c.** Where the Director receives a report from any source that gives the Director reasonable grounds to believe that the health, safety or welfare of a resident may be at risk, the Director shall cause an investigation to be commenced and the nursing home in which that resident lives to be visited forthwith.

17d.—(1) A licensee shall, at the end of each year as defined in the regulations, prepare or cause to be prepared for each of the licensee's nursing homes statements of the operation and financial affairs of that nursing home during the preceding year. Financial reporting

(2) The statements shall include, Idem

- (a) a statement of the revenue received by the nursing home, or by the licensee in respect of the nursing home, from the Ministry, from residents and from other sources;
- (b) a statement, broken down by categories, of the expenditures of the nursing home, or of the licensee in respect of the nursing home, including,
 - (i) payments to or for the benefit of the licensee, persons associated with the licensee and persons who provide management or administrative services in respect of the nursing home,
 - (ii) expenditures in respect of staff salaries and benefits, broken down by categories of staff,
 - (iii) expenditures for food, housekeeping, laundry and other goods and services,
 - (iv) payments made and amounts charged or recorded for depreciation, debt carrying charges, rent, and business and realty taxes;
- (c) any other information respecting the operation and financial affairs of the nursing home that is prescribed by the regulations.

(3) Where a licensee alone or with associates owns or has a controlling interest in more than one nursing home, the statements required under subsection (1) shall include, in addition to statements prepared for each of the licensee's nursing homes, a consolidated statement of the operation and financial affairs of all of those nursing homes and that consolidated statement shall include the information described in subsection (2). Idem

(4) The statements shall be made in the form and manner prescribed by the regulations and shall be certified by the licensee's auditor. Idem

Statement to
be filed

(5) A licensee shall file the statements referred to in subsection (1) with the Minister within ninety days after the end of the licensee's fiscal year.

Posting
and public
inspection

(6) The licensee shall post a copy of the statements referred to in subsection (1) in a prominent place in the nursing home.

Residents'
council

17e.—(1) Whenever at least three persons who are either residents in a nursing home or representatives of residents so request, a residents' council shall be established for that nursing home.

Idem

(2) The residents' council shall be established and conducted in the manner provided for by the regulations.

Members

(3) Each resident, or where the resident is unable to participate, the resident's representative may be a member of the residents' council and, in addition, a person selected by the resident or the representative may be a member of the residents' council.

Idem

(4) The Minister, at the request of a residents' council, may appoint no more than three persons to be members of the residents' council and those persons shall serve as members at the pleasure of the residents' council.

Idem

(5) The persons appointed under subsection (4) shall be persons who live in the area in which the nursing home is located and who are not employed by and do not have a contractual relationship with the Ministry.

Idem

(6) No licensee or where the licensee is a corporation, no officer, director or person with a controlling interest in it and no member of the staff of a nursing home shall be a member of a residents' council.

Obligation of
administrator

(7) Every administrator shall in respect of each nursing home that he has charge of, within ninety days of being licensed, convene a meeting of the residents or their representatives, to advise the residents that they have a right to form a residents' council.

Idem

(8) Where a residents' council is not established in a nursing home after the convening of a meeting under subsection (7), the administrator shall convene such a meeting at least once each year thereafter until a residents' council is established.

(9) Where a meeting is held under subsection (7) or (8), ^{Idem} the administrator shall notify the Director within thirty days of the results of the meeting.

(10) Where three or more residents or their representatives ^{Idem} at any time express an interest to their administrator in forming a residents' council, the administrator shall forthwith notify the Director of the interest and assist the residents or their representatives in forming a council within sixty days of the request.

17f. It is the function of a residents' council and it has the power to, ^{Powers of residents' council}

- (a) advise residents respecting their rights and obligations under this Act;
- (b) advise residents respecting the rights and obligations of the licensee under this Act;
- (c) meet regularly with the licensee to,
 - (i) review Ministry inspection reports,
 - (ii) review the allocation of money for food, supplies and services provided by the nursing home,
 - (iii) review the statements filed under section 17d when they are filed, and
 - (iv) review the operation of the nursing home;
- (d) attempt to mediate and resolve any dispute between a resident and the licensee; and
- (e) report to the Minister any concerns and recommendations that in its opinion ought to be brought to the Minister's attention.

17g.—(1) The Minister, with the consent of a residents' council, may appoint a residents' council assistant to assist the residents' council in carrying out its responsibilities. ^{Residents' council assistant}

(2) In carrying out his or her duties, a residents' council ^{Idem} assistant shall take instructions from and report to the residents' council.

Entry
not refused

(3) No person shall refuse entry to a nursing home to a residents' council assistant or obstruct a residents' council assistant.

Licensee
to
co-operate

17h. The licensee shall co-operate with the residents' council and the residents' council assistant and shall provide the information, including financial information, and assistance to them provided for by the regulations.

Committee,
etc., not
personally
liable

17i. No proceeding shall be commenced against a member of a residents' council or a residents' council assistant for any act done in accordance with section 17f, unless the act is done maliciously or without reasonable grounds.

15. Section 19 of the said Act is repealed and the following substituted therefor:

Liability
of licensee

19.—(1) In addition to any other liability for an offence under this Act or the regulations, the licensee is guilty of an offence for the contravention of any provision of this Act except subsection 17a (1) or of the regulations that creates an obligation in respect of a nursing home,

- (a) without imposing a duty on a specified person to carry it out; or
- (b) by imposing a duty on a specified person other than the licensee to carry it out.

Idem

(2) Notwithstanding subsection (1), a licensee is guilty of an offence under subsection (1) if the licensee contravenes subsection 17a (1).

Penalty

19a. Any person who contravenes any provision of this Act or the regulations, except subsection 12 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for each subsequent offence.

Evidence
of disabled
resident

19b.—(1) Where a party to a proceeding under section 19 or 19a wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the party may apply to a provincial judge for an order appointing a justice of the peace to attend upon the witness and to take the evidence of the witness under oath.

Idem

(2) Where a party to a proceeding before the Board under this Act wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is

unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

(3) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the resident is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Medical report sufficient proof

(4) A person shall not take evidence from a resident under subsection (1) or (2) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the resident.

Opportunity to examine

(5) A transcript of the evidence of a resident taken under subsection (1) and certified as correct by the person who recorded it may be read in evidence in a proceeding under this Act.

Transcript as evidence

16.—(1) Clause 20 (j) of the said Act is amended by adding at the end thereof “and governing their form and content”.

(2) Section 20 of the said Act is amended by adding thereto the following clauses:

- (ma) respecting the form and content of requests for proposals for the issuing of nursing home licenses;
-
- (ta) designating services to be provided to residents by licensees for which no more than a prescribed amount may be charged and prescribing that amount;
- (tb) defining “year” for the purposes of subsection 17d (1) (financial reporting), prescribing other information respecting the operation and financial affairs of the nursing home for the purposes of clause 17d (2) (c), and prescribing the form and manner in which statements shall be made;
- (tc) respecting the establishment and conduct of residents’ councils;
- (td) respecting the information, financial information and assistance a licensee shall give to a residents’ council and a residents’ council assistant.

Commence-
ment

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

Short title

18. The short title of this Act is the *Nursing Homes Amendment Act, 1987*.





Bill 177

An Act to amend the Health Facilities Special Orders Act, 1983

The Hon. M. Elston
Minister of Health

1st Reading December 16th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Subsection 10 (4a) replaces subsection 11 (2) of the Act which is repealed in section 2. Subsection 11 (2) of the Act provides:

(2) Notice of a hearing under this Act shall afford the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.

The new subsection clarifies that a licensee should be given an opportunity to comply with lawful requirements in order to avoid proceedings, where it is just to do so. A similar change is made in Mr. Elston's bill amending the *Nursing Homes Act*.

SECTION 2. The proposed amendments to section 11 of the Act set out in this Bill would ensure that an agent of a residents' council can be a party to a proceeding concerning a nursing home under this Act and that residents and other affected persons may be given an opportunity to make submissions to the Board. Mr. Elston's bill amending the *Nursing Homes Act* has a similar provision.

SECTION 3. Self-explanatory. A similar provision with respect to residents of nursing homes is included in Mr. Elston's bill amending the *Nursing Homes Act*.

Bill 177

1987

**An Act to amend the
Health Facilities Special Orders Act, 1983**

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

1. Section 10 of the *Health Facilities Special Orders Act, 1983*, being chapter 43, is amended by adding thereto the following subsection:

(4a) Before the Board hears a matter it must be satisfied that the licensee has been given a reasonable opportunity to comply with all the lawful requirements for the retention of the licence where it would be just and reasonable to do so. Opportunity
to comply

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

(2) Where the licensee holds a licence under the *Nursing Homes Act*, an agent for the residents' council of the nursing home established under that Act is also a party to proceedings before the Board under this Act and the Board may permit any person who is not a party before it, including a resident of the nursing home, a representative of a resident of the nursing home, an employee of the nursing home or any other person who may be affected by its decision to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent. Idem
R.S.O. 1980,
c. 320

(2) Subsection 11 (3) of the said Act is amended by inserting after "subsection (1)" in the first line "and a person who is permitted to make submissions to the Board under subsection (2)".

(3) Subsection 11 (6) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

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

Evidence
of disabled
person

11a.—(1) Where a party to a proceeding under this Act wishes to call as a witness in the proceeding a person who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

Medical
report
sufficient
proof

(2) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the witness is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Opportunity
to examine

(3) A person shall not take evidence from a witness under subsection (1) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the witness.

Commence-
ment

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

Short title

5. The short title of this Act is the *Health Facilities Special Orders Amendment Act, 1987*.

Bill 177

An Act to amend the Health Facilities Special Orders Act, 1983

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 4th, 1987
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTION 1. Subsection 10 (4a) replaces subsection 11 (2) of the Act which is repealed in section 2. Subsection 11 (2) of the Act provides:

(2) Notice of a hearing under this Act shall afford the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.

▼ The new subsection provides that the Board shall proceed with a hearing forthwith unless the licensee satisfies the Board that the licensee has not been given a reasonable opportunity to comply, it would be just and reasonable to give the licensee that opportunity and delaying the hearing won't adversely affect the health or safety of persons served by the health facility. A similar change is made in Mr. Elston's bill amending the *Nursing Homes Act*. ▲

SECTION 2. The proposed amendments to section 11 of the Act set out in this Bill would ensure that any resident, employee or group of residents or employees who request party status can be a party to a proceeding concerning a nursing home under this Act and that residents and other affected persons may be given an opportunity to make submissions to the Board. Mr. Elston's bill amending the *Nursing Homes Act* has a similar provision.

SECTION 3. Self-explanatory. A similar provision with respect to residents of nursing homes is included in Mr. Elston's bill amending the *Nursing Homes Act*.

Bill 177

1987

**An Act to amend the
Health Facilities Special Orders Act, 1983**

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

1. Section 10 of the *Health Facilities Special Orders Act, 1983*, being chapter 43, is amended by adding thereto the following subsection:

(4a) Where the Board is required to hold a hearing, it shall proceed forthwith to hold the hearing unless the licensee satisfies the Board that the licensee has not been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence, that it would be just and reasonable to give the licensee that opportunity and that delaying the hearing will not adversely affect the health or safety of the persons served by the health facility. ▲

Opportunity
to comply

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

(2) Where the licensee holds a licence under the *Nursing Homes Act*, any resident or employee or group of residents or employees who request party status are also parties to proceedings before the Board under this Act.

Idem
R.S.O. 1980,
c. 320

(2a) Where the licensee holds a licence under the *Nursing Homes Act*, the Board may permit any person who is not a party before it, including a resident of the nursing home, a representative of a resident of the nursing home, an employee of the nursing home or any other person who may be affected by its decision to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent.

Submissions

(2) Subsection 11 (3) of the said Act is amended by inserting after "subsection (1)" in the first line "or (2) and a person

who is permitted to make submissions to the Board under subsection (2a)".

(3) Subsection 11 (6) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

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

Evidence
of disabled
person

11a.—(1) Where a party to a proceeding under this Act wishes to call as a witness in the proceeding a person who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

Medical
report
sufficient
proof

(2) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the witness is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Opportunity
to examine

(3) A person shall not take evidence from a witness under subsection (1) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the witness.

Commence-
ment

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

Short title

5. The short title of this Act is the *Health Facilities Special Orders Amendment Act, 1987*.

Bill 177

*(Chapter 21
Statutes of Ontario, 1987)*

An Act to amend the Health Facilities Special Orders Act, 1983

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 4th, 1987
<i>3rd Reading</i>	May 25th, 1987
<i>Royal Assent</i>	May 27th, 1987



Bill 177

1987

**An Act to amend the
Health Facilities Special Orders Act, 1983**

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

1. Section 10 of the *Health Facilities Special Orders Act, 1983*, being chapter 43, is amended by adding thereto the following subsection:

(4a) Where the Board is required to hold a hearing, it shall proceed forthwith to hold the hearing unless the licensee satisfies the Board that the licensee has not been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence, that it would be just and reasonable to give the licensee that opportunity and that delaying the hearing will not adversely affect the health or safety of the persons served by the health facility.

Opportunity
to comply

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

(2) Where the licensee holds a licence under the *Nursing Homes Act*, any resident or employee or group of residents or employees who request party status are also parties to proceedings before the Board under this Act.

Idem
R.S.O. 1980,
c. 320

(2a) Where the licensee holds a licence under the *Nursing Homes Act*, the Board may permit any person who is not a party before it, including a resident of the nursing home, a representative of a resident of the nursing home, an employee of the nursing home or any other person who may be affected by its decision to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent.

Submissions

(2) Subsection 11 (3) of the said Act is amended by inserting after "subsection (1)" in the first line "or (2) and a person

who is permitted to make submissions to the Board under subsection (2a)''.

(3) Subsection 11 (6) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)''.

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

Evidence
of disabled
person

11a.—(1) Where a party to a proceeding under this Act wishes to call as a witness in the proceeding a person who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

Medical
report
sufficient
proof

(2) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the witness is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Opportunity
to examine

(3) A person shall not take evidence from a witness under subsection (1) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the witness.

Commence-
ment

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

Short title

5. The short title of this Act is the *Health Facilities Special Orders Amendment Act, 1987*.

Bill 188

An Act to amend the Retail Business Holidays Act

Mr. Ashe

1st Reading January 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would allow all retail establishments that sell only books, newspapers or periodicals and all art galleries to be open on Sunday and other public holidays.

Bill 188

1987

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.—(1) Subclause 3 (1) (a) (ii) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by striking out “newspapers or periodicals, or” in the first line.

(2) Subsection 3 (3) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clause:

(d) books, newspapers or periodicals.

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

(3a) Section 2 does not apply in respect of the carrying on of a retail business on a holiday in an art gallery. Idem, art galleries

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

3. The short title of this Act is the *Retail Business Holidays Amendment Act, 1987*. Short title



Bill 188

An Act to amend the Retail Business Holidays Act

Mr. Ashe

1st Reading January 15th, 1987
2nd Reading February 12th, 1987
3rd Reading
Royal Assent

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

EXPLANATORY NOTE

The Bill would allow retail establishments that sell only books, newspapers or periodicals and art galleries to be open on Sunday and other public holidays, provided that the number of persons engaged in the service of the public does not exceed three and that the area used for serving the public or for selling or displaying is less than 2,400 square feet.

Bill 188

1987

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.—(1) Subclause 3 (1) (a) (ii) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by striking out “newspapers or periodicals, or” in the first line.

(2) Subsection 3 (3) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clause:

- ↙
- (d) books, newspapers or periodicals provided that no other goods are available for sale except as sundries, the number of persons engaged in the service of the public in the establishment does not at any time exceed three and the total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet. ↗

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

↙

(3a) Section 2 does not apply in respect of the carrying on of the retail business of an art gallery on a holiday, where on that day the number of persons engaged in the service of the public in the art gallery does not at any time exceed three and the total area used for serving the public or for selling or displaying to the public in the art gallery is less than 2,400 square feet. ↗

Idem, art galleries

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

3. The short title of this Act is the *Retail Business Holidays Amendment Act, 1987*. Short title



Bill 188

*(Chapter 36
Statutes of Ontario, 1987)*

An Act to amend the Retail Business Holidays Act

Mr. Ashe

<i>1st Reading</i>	January 15th, 1987
<i>2nd Reading</i>	February 12th, 1987
<i>3rd Reading</i>	June 29th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill 188

1987

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.—(1) Subclause 3 (1) (a) (ii) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by striking out “newspapers or periodicals, or” in the first line.

(2) Subsection 3 (3) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clause:

- (d) books, newspapers or periodicals provided that no other goods are available for sale except as sundries, the number of persons engaged in the service of the public in the establishment does not at any time exceed three and the total area used for serving the public or for selling or displaying to the public in the establishment is less than 2,400 square feet.

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

(3a) Section 2 does not apply in respect of the carrying on of the retail business of an art gallery on a holiday, where on that day the number of persons engaged in the service of the public in the art gallery does not at any time exceed three and the total area used for serving the public or for selling or displaying to the public in the art gallery is less than 2,400 square feet.

Idem, art galleries

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

Commencement

3. The short title of this Act is the *Retail Business Holidays Amendment Act, 1987*.

Short title



Bill 190

An Act to amend the Mental Health Act

The Hon. M. Elston
Minister of Health

1st Reading January 28th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Clause 1 (j), the definition of "nearest relative", is repealed. It provides:

(j) "*nearest relative*" means,

- (i) *a person to whom the person is married, with whom the person is living and who has attained the age of sixteen years and is mentally competent, or*
- (ii) *if none or if none is available, a person of the opposite sex with whom the person is living outside marriage in a conjugal relationship and who has attained the age of sixteen years and is mentally competent, if the two persons,*
 - (A) *have cohabited for at least one year,*
 - (B) *are together the parents of a child, or*
 - (C) *have together entered into a cohabitation agreement under section 53 of the Family Law Act, 1986,*
- (iii) *if none or if none is available, any one of the children who has attained the age of sixteen years and is mentally competent, or*
- (iv) *if none or if none is available, either of the parents who is mentally competent or the guardian, or*
- (v) *if none or if none is available, any one of the brothers or sisters who has attained the age of sixteen years and is mentally competent, or*
- (vi) *if none or if none is available, any other of the next of kin who has attained the age of sixteen years and is mentally competent.*

In the present Act, the nearest relative is given the right to consent on behalf of a patient who is under sixteen or not mentally competent to disclosure of a clinical record and, if the patient is an involuntary patient, to treatment, and is given the right on behalf of such a patient to have access to a clinical record. The Bill establishes a different regime of substitute consent in section 2.

SECTION 2. The Bill gives persons the right while they are mentally competent to appoint any representative to consent on their behalf in the event that they become not mentally competent for the purposes of the *Mental Health Act*. It provides a rank order for persons to consent on behalf of a patient or former patient who is under sixteen or not mentally competent, as follows:

1. The person appointed as the patient's committee.
2. The patient's representative.
3. The patient's married or common law spouse.
4. A child of the patient.
5. A parent of the patient or person with custody of the patient.
6. A brother or sister of the patient.
7. Another next of kin of the patient.

Persons are required to give or refuse consent on behalf of a patient on the basis of the patient's wishes, if known, and on the basis of the best interest of the patient otherwise.

SECTIONS 3 and 4. Ancillary to sections 1 and 2.

SECTIONS 5 and 6. Section 35 deals with treatment orders. The Act, as amended by the Statutes of Ontario, 1986, chapter 64 (Bill 7), provides that a patient's attending physician may apply to the review board for an order that specified treatment be given to a patient who is an involuntary patient, not mentally competent and without a nearest relative available to consent on his or her behalf. However, in all other cases, treatment cannot be provided to a patient without the patient's consent or the consent of the nearest relative. Section 5 of the Bill would change this by allowing the attending physician to apply to the review board for an order for specified treatment, other than electroconvulsive therapy, if two physicians certify that they believe the mental condition of the patient is likely to be substantially improved by the treatment and is not likely to improve without the treatment. Without such an order or in the case of a voluntary patient, the doctor must have the consent of the patient, if competent, or the consent of the person designated under section 2, above, on behalf of the patient in order to proceed with treatment. The best interests of the patient for the purpose of a substitute consent are to be determined in terms of whether the condition of the patient is likely to be substantially improved by the treatment and whether the condition of the patient will improve without the treatment.



Bill 190

1987

An Act to amend the Mental Health Act

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

1. Clause 1 (j) of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

2. The said Act is amended by adding thereto the following sections:

1a.—(1) In this section and section 1b, “patient” includes a former patient, out-patient and former out-patient. Interpre-
tation

(2) A person may give or refuse consent on behalf of a patient who has not attained the age of sixteen years or is not mentally competent if the person has attained the age of sixteen years, is apparently mentally competent, is available and willing to give or refuse consent and is described in one of the following paragraphs: Substitute
consent

1. The committee of the patient appointed under the *Mental Incompetency Act*. R.S.O. 1980,
c. 264

2. The patient’s representative appointed under section 1b.

3. The person to whom the patient is married or the person of the opposite sex with whom the patient is living outside marriage in a conjugal relationship or was living outside marriage in a conjugal relationship immediately before being admitted to the psychiatric facility, if in the case of unmarried persons they,

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

- 1986, c. 4
- (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*.
4. A child of the patient.
 5. A parent of the patient or a person who has lawful custody of the patient.
 6. A brother or sister of the patient.
 7. Any other next of kin of the patient.
- Refusal (3) If a person in a category in subsection (2) refuses consent on the patient's behalf, the consent of a person in a subsequent category is not valid.
- Preference (4) If two or more persons who are described in different paragraphs of subsection (2) claim the authority to give or refuse consent on behalf of a patient, the claim of the person who is described in the paragraph occurring first in that subsection prevails.
- Conflict (5) If two or more persons who are described in the same paragraph of subsection (2) claim the authority to give or refuse consent on behalf of a patient, if they disagree about whether to give or refuse consent and if their claims would prevail over any other claims under subsection (4), the refusal prevails.
- Consent by relative (6) A person described in paragraphs 3, 4, 5, 6 or 7 of subsection (2) may not give or refuse consent on a patient's behalf unless the person makes a statement in writing certifying,
- (a) the person's relationship to the patient;
 - (b) that the person has been in personal contact with the patient over the preceding twelve month period;
 - (c) that the person is willing to assume the responsibility for consent or refusing consent; and
 - (d) that the person is not aware of any other person described in the same paragraph or in a previous paragraph who claims the authority to give or refuse consent.
- Basis for substitute consent (7) A person authorized to give or refuse consent on behalf of a patient shall do so in accordance with the wishes of the

patient if the person knows that the patient expressed any such wishes when apparently mentally competent and at least sixteen years of age and in accordance with the best interests of the patient if the person does not know of any such wishes.

(8) A person who seeks another person's consent on a patient's behalf is entitled to rely on the accuracy of the other person's written statement under subsection (6), unless it is not reasonable to do so. Reliance on statement

(9) A person seeking consent on behalf of a patient is not liable for failing to request the consent of another person entitled to give or refuse consent on behalf of the patient if, after reasonable inquiries, the person did not find the other person. Reasonable inquiries

1b.—(1) A person who has attained the age of sixteen years and is mentally competent to do so has the right to appoint a representative who has attained the age of sixteen years and is apparently mentally competent to give or refuse consent on behalf of the person for the purpose of paragraph 2 of subsection 1a (2). Patient's representative

(2) An appointment of a representative shall be made in writing in the presence of a witness. Appointment in writing

(3) An appointment may be subject to such conditions and restrictions, if any, as are contained in it and not inconsistent with this Act. Conditions

(4) A physician who admits or registers a patient to a psychiatric facility shall promptly inform the patient in writing of the patient's right under subsection (1). Notice by physician

(5) The officer in charge shall promptly inform all persons who are patients of the facility at the time of the coming into force of this Act, other than former patients and former out-patients, in writing of their rights under subsection (1). Transitional

(6) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act. Contents of notice

(7) If a patient gives or transmits to the officer in charge a statement in writing appointing a representative, the officer in charge shall transmit the statement to the representative forthwith. Appointment of representative

(8) A patient who has appointed a representative may revoke in writing the appointment and may appoint in writing a new representative while mentally competent to do so, and Revocation

subsection (7) applies with necessary modifications in respect of the revocation and new appointment.

3.—(1) Clause 29 (3) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third and fourth lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(2) Clause 29 (3) (e) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third and fourth lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(3) Subsection 29 (3a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(4) Clause 29 (9) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third line and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(5) Clause 29 (9) (c) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the sixth and seventh lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

4.—(1) Subsection 29a (16) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out “patient’s nearest relative” in the second and third lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(2) Subsection 29a (17) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out “patient’s nearest relative” in the third line and inserting in lieu thereof “person”.

5. Section 35 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

- (a) “electroconvulsive therapy” means the procedure for the treatment of certain mental disorders that induces, by electrical stimulation of the brain, a series of generalized convulsions;
- (b) “having the ability to understand the subject matter in respect of which consent is requested” in the definition of “mentally competent” means having the ability to understand the nature of the illness for which treatment is proposed and the treatment proposed; and
- (c) “psychosurgery” means any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or which inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions or to diagnose or treat intractable physical pain or epilepsy where these conditions are clearly demonstrable.

(2) Psychiatric and other related medical treatment shall not be given to a patient, Consent
to
treatment

- (a) where the patient has attained the age of sixteen years and is mentally competent, without the consent of the patient;
- (b) where the patient has not attained the age of sixteen years or is not mentally competent,
 - (i) without the consent of a person authorized by section 1a to consent on behalf of the patient,
 - (ii) unless the review board has made an order authorizing the giving of the specified psychiatric and other related medical treatment, or
 - (iii) unless a physician certifies in writing that there is imminent and serious danger to the life, a limb or a vital organ of the patient requiring immediate treatment and the physician believes that delay in obtaining consent would endanger the life, a limb or a vital organ of the patient.

No psycho-
surgery

(3) The consent of an involuntary patient or a person who is authorized by section 1a to consent on behalf of an involuntary patient to psychiatric and other related medical treatment does not include and shall not be deemed to include psycho-surgery.

Best
interests

(4) A person authorized to give or refuse consent on behalf of a patient shall consider the following factors to determine whether a specified psychiatric treatment and other related medical treatment are in the best interests of a patient,

- (a) whether the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) whether the mental condition of the patient will improve or is likely to improve without the specified psychiatric treatment.

6. The said Act is further amended by renumbering section 35a, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, as section 35d and by adding thereto the following sections:

Application
to review
board

35a.—(1) The attending physician of an involuntary patient may apply to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to the patient,

- (a) where the patient has attained the age of sixteen years and is mentally competent to consent to such treatment, if the patient has refused to consent;
- (b) where the patient has not attained the age of sixteen years or is not mentally competent,
 - (i) if a person authorized under section 1a to consent to such treatment on the patient's behalf has refused to consent,
 - (ii) if there is no person available who is authorized under section 1a to consent to such treatment on the patient's behalf, or
 - (iii) under the circumstances described in subsection 1a (4).

Material on
application

(2) The review board shall not consider an application unless it is accompanied by statements signed by the attending physician and a psychiatrist who is not a member of the medi-

cal staff of the psychiatric facility, each stating that they have examined the patient and that they are of the opinion that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment.

(3) Each of the opinions in the statements described in subsection (2) shall be supported with reasons. Reasons for opinions

(4) The review board by order may authorize the giving of the specified psychiatric and other related medical treatment if it is satisfied that, Basis for decision

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment.

(5) An order may include terms and conditions and shall specify the period of time during which it is effective. Terms and conditions

(6) No order of the board is or shall be deemed to be authority to perform psychosurgery or to administer electroconvulsive therapy. No psychosurgery, E.C.T.

(7) The attending physician, the patient, where the patient has attained the age of sixteen years and is mentally competent, and such other persons as the review board may specify are parties to the proceedings before the review board. Parties

(8) Where the patient has not attained the age of sixteen years or is not mentally competent, Idem

- (a) the person authorized under section 1a to consent on the patient's behalf;
- (b) under the circumstances described in subsection 1a(4), all of the persons described therein; or
- (c) if there is no person available who is authorized under section 1a to consent on the patient's behalf, the Official Guardian,

are parties to the proceedings in the place of the patient.

Treatment
pending
appeal

(9) Where a party appeals an order authorizing the providing of specific psychiatric and other related medical treatment or a specific course of psychiatric and other related medical treatment to a patient, the treatment or course of treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to.

Procedure

(10) Sections 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Application
for review of
patient
determined
incompetent

35b.—(1) An involuntary patient determined to be not mentally competent for the purpose of sections 35 or 35a may apply in the prescribed form to the review board to inquire into whether the patient is not mentally competent.

Idem

(2) If an application is made under subsection (1), the proposed psychiatric treatment shall not be given until the matter is determined by the review board or, where the patient appeals its decision, until the matter is finally determined, unless otherwise ordered by a judge of the court appealed to.

Idem

(3) Sections 33, 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Treatment
for persons
detained
under
R.S.C. 1970,
c. C-34

35c. Sections 35, 35a and 35b apply with necessary modifications to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada), as if the person were an involuntary patient.

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 *Mental Health Amendment Act, 1987*.

Bill 190

An Act to amend the Mental Health Act

The Hon. M. Elston
Minister of Health

1st Reading January 28th, 1987
2nd Reading February 11th, 1987
3rd Reading
Royal Assent

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The term “informal patient” is defined.

Subsection 2. Clause 1 (j), the definition of “nearest relative”, is repealed. It provides:

(j) “nearest relative” means,

- (i) a person to whom the person is married, with whom the person is living and who has attained the age of sixteen years and is mentally competent, or
- (ii) if none or if none is available, a person of the opposite sex with whom the person is living outside marriage in a conjugal relationship and who has attained the age of sixteen years and is mentally competent, if the two persons,
 - (A) have cohabited for at least one year,
 - (B) are together the parents of a child, or
 - (C) have together entered into a cohabitation agreement under section 53 of the Family Law Act, 1986,
- (iii) if none or if none is available, any one of the children who has attained the age of sixteen years and is mentally competent, or
- (iv) if none or if none is available, either of the parents who is mentally competent or the guardian, or
- (v) if none or if none is available, any one of the brothers or sisters who has attained the age of sixteen years and is mentally competent, or
- (vi) if none or if none is available, any other of the next of kin who has attained the age of sixteen years and is mentally competent.

In the present Act, the nearest relative is given the right to consent on behalf of a patient who is under sixteen or not mentally competent to disclosure of a clinical record and, if the patient is an involuntary patient, to treatment, and is given the right on behalf of an incompetent patient to have access to a clinical record. The Bill establishes a different regime of substitute consent in section 2.

Subsection 3. The term “related medical treatment” is defined.

SECTION 2. The Bill gives persons the right while they are mentally competent to appoint a representative to consent on their behalf in the event that they become not mentally competent for the purposes of the *Mental Health Act*. It provides a rank order for persons to consent on behalf of a patient who is not mentally competent, as follows:

1. The person appointed as the patient’s committee.
2. The patient’s representative.
3. The patient’s married or common law spouse.
4. A child of the patient.
5. A parent of the patient or person with custody of the patient.
6. A brother or sister of the patient.
7. Another next of kin of the patient.

8. The Official Guardian.

Persons are required to give or refuse consent on behalf of a patient on the basis of the patient's wishes, if known, and on the basis of the best interest of the patient otherwise.

SECTION 3. Subsection 15 (3) of the Act authorizes a judge to order a person to attend a psychiatric facility for treatment. This is now repealed.

SECTIONS 4 and 5. Ancillary to sections 1 and 2.

SECTION 6. Section 30a of the Act is amended to require notice to the person and to the legal aid area director when application is made for assessment or a treatment order.

SECTION 7. Subsection 31 (4) of the Act provides for a mandatory review on every fourth certificate of renewal.

SECTIONS 8, 9 and 10. Sections 32, 32a and 33f of the Act relate to the time period of a certificate during a hearing or appeal.

SECTION 11. Section 35 of the Act sets out criteria for the giving of psychiatric treatment and other related medical treatment.

SECTION 12. Sections 35a, 35b and 35c of the Act relate to applications to the review board, the authority of the review board, treatment pending an appeal and to persons remanded or detained under the *Criminal Code*.



Bill 190

1987

An Act to amend the Mental Health Act

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

1.—(1) Section 1 of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following clause:

(ba) “informal patient” means a person who is a patient in a psychiatric facility under the authority of a parent, guardian or committee of the person appointed for the patient under the *Mental Incompetency Act*.

R.S.O. 1980,
c. 264

(2) Clause 1 (j) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following clause:

(sa) “related medical treatment” means medical treatment or procedures necessary for,

(i) the safe and effective administration of the psychiatric treatment, or

(ii) the control of the unwanted effects of the psychiatric treatment. ▲


2. The said Act is amended by adding thereto the following sections:

1a.—(1) A person may give or refuse consent on behalf of a patient who is not mentally competent if the person has attained the age of sixteen years, is apparently mentally competent, is available and willing to give or refuse consent and is described in one of the following paragraphs:

Substitute
consent



R.S.O. 1980,
c. 264

1. The committee of the person appointed for the patient under the *Mental Incompetency Act*. 

2. The patient's representative appointed under section 1b or 1c.

3. The person to whom the patient is married or the person of the opposite sex with whom the patient is living outside marriage in a conjugal relationship or was living outside marriage in a conjugal relationship immediately before being admitted to the psychiatric facility, if in the case of unmarried persons they,

i. have cohabited for at least one year,

ii. are together the parents of a child, or

iii. have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*.

1986, c. 4


4. A child of the patient.

5. A parent of the patient or a person who has lawful custody of the patient.

6. A brother or sister of the patient.

7. Any other next of kin of the patient.



8. The Official Guardian. 

Refusal

(2) If a person in a category in subsection (1) refuses consent on the patient's behalf, the consent of a person in a subsequent category is not valid.

Preference

(3) If two or more persons who are described in different paragraphs of subsection (1) claim the authority to give or refuse consent on behalf of a patient, the claim of the person who is described in the paragraph occurring first in that subsection prevails.

Conflict

(4) If two or more persons who are described in the same paragraph of subsection (1) claim the authority to give or refuse consent on behalf of a patient, if they disagree about whether to give or refuse consent and if their claims would prevail over any other claims under subsection (3), the refusal prevails.

(5) A person described in paragraph 3, 4, 5, 6 or 7 of subsection (1) may not give or refuse consent on a patient's behalf unless the person makes a statement in writing certifying,

Consent
by
relative

- (a) the person's relationship to the patient;
- (b) that the person has been in personal contact with the patient over the preceding twelve month period;
- (c) that the person is willing to assume the responsibility for consent or refusing consent; and
- (d) that the person is not aware of any other person described in the same paragraph or in a previous paragraph who claims the authority to give or refuse consent.

(6) A person authorized to give or refuse consent on behalf of a patient shall do so in accordance with the wishes of the patient if the person knows that the patient expressed any such wishes when apparently mentally competent and in accordance with the best interests of the patient if the person does not know of any such wishes.

Basis for
substitute
consent

(7) A person who seeks another person's consent on a patient's behalf is entitled to rely on the accuracy of the other person's written statement under subsection (5), unless it is not reasonable to do so.

Reliance
on
statement

(8) A person seeking consent on behalf of a patient is not liable for failing to request the consent of another person entitled to give or refuse consent on behalf of the patient if, after reasonable inquiries, the person did not find the other person.

Reasonable
inquiries

1b.—(1) A person who has attained the age of sixteen years and is mentally competent to do so has the right to appoint a representative who has attained the age of sixteen years and is apparently mentally competent to give or refuse consent on behalf of the person for the purpose of paragraph 2 of subsection 1a (1).

Patient's
representative

(2) An appointment of a representative shall be made in writing in the presence of a witness.

Appointment
in writing

(3) An appointment may be subject to such conditions and restrictions, if any, as are contained in it and not inconsistent with this Act.

Conditions

Notice by
physician

▼ (4) The attending physician shall inform the patient in writing of the patient's right under subsection (1) within forty-eight hours after the patient is admitted or registered to the psychiatric facility.

Transitional

(5) As soon as practicable, the officer in charge shall inform all persons who are patients of the facility at the time of the coming into force of this section in writing of their rights under subsection (1). ▲

Contents
of notice

(6) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act.

Appointment
of repre-
sentative

(7) If a patient gives or transmits to the officer in charge a statement in writing appointing a representative, the officer in charge shall transmit the statement to the representative forthwith.

Revocation

(8) A person who has appointed a representative may revoke in writing the appointment and may appoint in writing a new representative while mentally competent to do so, and subsection (7) applies with necessary modifications in respect of the revocation and new appointment.

Board
appointed
representative

▼ **1c.—**(1) A patient who has attained the age of sixteen years, is not mentally competent to appoint a representative and has not named a representative under section 1b, has the right to apply to the board for the appointment of a representative requested by the patient to give or refuse consent on behalf of the patient for the purpose of paragraph 2 of subsection 1a (1).

Notice by
physician

(2) An attending physician who determines that a patient is not competent to appoint a representative shall as soon as practicable inform the patient in writing of the patient's right under subsection (1).

Contents of
notice

(3) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act.

Parties

(4) The patient, the person proposed as a representative, the person who would be authorized under subsection 1a (1) to consent on behalf of the patient if no order is made by the board under this section and such other persons as the board may specify are parties to a proceeding before the board under this section.

(5) The board shall appoint a person as a representative for a patient only if the patient approves of the appointment and the board is satisfied that the person, Appointment

- (a) has attained the age of sixteen years;
- (b) is apparently mentally competent to give or refuse consent on behalf of the patient;
- (c) consents to the appointment; and
- (d) in the board's opinion it is in the patient's interest to appoint the person as a representative.

(6) The board may appoint a person other than the person requested by the patient to be the patient's representative. Idem

(7) An appointment made by the board may be subject to such conditions and restrictions, if any, as are approved by the patient, set out in the appointment and not inconsistent with this Act. Conditions

1d.—(1) A person who has not attained sixteen years of age is presumed to be not mentally competent to consent for the purposes of this Act. Person
sixteen years
of age

(2) The presumption that a person is not mentally competent is subject to a determination by the attending physician, the review board or a court, pursuant to subsection 29a (14), section 35 or 35b, that the person is mentally competent. Limitation

3. Subsection 15 (3) of the said Act is repealed.

4.—(1) Clause 29 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) "patient" includes former patient, out-patient, former out-patient and anyone who is or has been detained in a psychiatric facility.

(2) Clause 29 (3) (a) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "has attained the age of sixteen years and" in the first and second lines.

(3) Clause 29 (3) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "has not attained the age of sixteen years or" in the first and second lines. ▲

(4) The said clause 29 (3) (b) is further amended by striking out "nearest relative of the patient" in the third and fourth lines and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(5) Clause 29 (3) (e) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "has not attained the age of sixteen years or" in the second line.

(6) The said clause 29 (3) (e) is further amended by striking out "nearest relative of the patient" in the third and fourth lines and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(7) Subsection 29 (3a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(8) Clause 29 (9) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "nearest relative of the patient" in the third line and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(9) Clause 29 (9) (c) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "nearest relative of the patient" in the sixth and seventh lines and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

5.—(1) Subsection 29a (1) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Patient access
to clinical
record

(1) A patient who is mentally competent is entitled to examine and copy at the patient's own expense the clinical record of the patient or a copy of the record.

(2) Subsection 29a (14) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by inserting after "determined" in the first line "or presumed".

(3) Subsection 29a (16) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out "has not attained the age of sixteen years or" in the first and second lines and by striking out "patient's nearest relative" in the second and third lines and inserting in

lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(4) Subsection 29a (17) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out "patient's nearest relative" in the third line and inserting in lieu thereof "person".

6. Section 30a of the said Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 66 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following subsections:

(1c) The attending physician of a person who is the subject of an application for assessment under section 9 or of an order under section 26 shall give or transmit to the person written notice of the application or order.

Notice of application or order

(1d) A physician who applies to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to a patient shall give or transmit written notice of the application to the patient and to the area director for the area, in accordance with the *Legal Aid Act*, in which the psychiatric facility is located.

Notice of application for order

R.S.O. 1980, c. 234

(1e) The notices specified in subsections (1), (1b) and (1c), excluding the notice to the area director, shall inform the patient or person,

Information

- (a) of the reasons for the detention; and
- (b) that he or she has the right to retain and instruct counsel without delay.

7.—(1) Subsection 31 (2) of the said Act is amended by adding at the commencement thereof "In addition to the applications under subsection (4)".

(2) Section 31 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following subsection:

(5) A waiver by an involuntary patient of an application or of the right to an application mentioned in subsection (4) is a nullity.

Waiver

8. Section 32 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Hearing
deemed
abandoned

32. Except as provided in subsection 33f (1e), where an appeal is taken against a certificate of involuntary admission or a certificate of renewal and the time period for the certificate under subsection 14 (4) expires before a decision is rendered, the appeal shall be deemed to be abandoned whether or not the certificate is renewed.

9. Section 32a of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Review of
admission or
renewal

32a.—(1) On the hearing of an application, the review board shall promptly review the patient's status to determine whether or not the prerequisites set out in this Act for admission as an involuntary patient continue to be met at the time of the hearing of the application.

Confirming
order

(2) The review board by order may confirm the patient's status as an involuntary patient if the review board determines that the prerequisites set out in this Act for admission as an involuntary patient were met at the time of the hearing of the application.

Rescinding
order

(3) The review board by order shall rescind the certificate if the review board determines that the prerequisites set out in this Act for admission as an involuntary patient were not met at the time of the hearing of the application.

Application
of order

(4) An order of the review board confirming or rescinding a certificate applies to the certificate of involuntary admission or the certificate of renewal in force immediately before the making of the order.

10.—(1) Subsection 33f (1d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by inserting after "days" in the fifth line "excluding Saturday and holidays".

(2) Subsection 33f (1e) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Extension of
certificate for
appeal

(1e) Where, before a certificate of involuntary admission, a certificate of renewal or an extension of a certificate expires, a party to the appeal other than the patient or the person acting on the patient's behalf applies to the court for an extension of the certificate beyond the time period for the certificate under subsection 14 (4), the court may by order extend the effectiveness of the certificate.

(3) Subsection 33f (1f) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out "or" at the end of clause (b), by adding "or" at the end of clause (c) and by adding thereto the following clause:

- (d) until the attending physician confirms under subsection (1k) that the patient does not meet the criteria set out in subsection 14 (5).

(4) Section 33f of the said Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 67 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following subsections:

(1j) Where an appeal is taken from a decision of the review board to confirm a certificate of involuntary admission or a certificate of renewal, the certificate is effective until, Effectiveness of certificate

- (a) the certificate is confirmed or rescinded by the court;
- (b) the certificate is rescinded by the attending physician;
- (c) forty-eight hours after notice is given to the attending physician that the party appealing has withdrawn the appeal; or
- (d) the attending physician confirms under subsection (1k) that the patient does not meet the criteria set out in subsection 14 (5).

(1k) Notwithstanding subsections (1) to (1i), the attending physician shall examine the patient at the intervals that would have applied under section 14 and shall complete and file with the officer in charge a statement in writing as to whether or not the patient meets the criteria set out in subsection 14 (5). Examination

11. Section 35 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

35.—(1) In this section and in sections 35a, 35b and 35c, Interpretation

- (a) "electroconvulsive therapy" means the procedure for the treatment of certain mental disorders that induces, by electrical stimulation of the brain, a series of generalized convulsions;

- (b) "having the ability to understand the subject matter in respect of which consent is requested" in the definition of "mentally competent" means having the ability to understand the nature of the illness for which treatment is proposed and the treatment proposed; and
- (c) "psychosurgery" means any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or which inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions or to diagnose or treat intractable physical pain or epilepsy where these conditions are clearly demonstrable.

Consent to treatment

(2) Psychiatric and other related medical treatment shall not be given to a patient,

- (a) where the patient is mentally competent, without the voluntary, informed consent of the patient;
- (b) where the patient is not mentally competent,
 - (i) without the consent of a person authorized by section 1a to consent on behalf of the patient,
 - (ii) unless the review board has made an order authorizing the giving of the specified psychiatric and other related medical treatment, or
 - (iii) unless a physician certifies in writing that there is imminent and serious danger to the life, a limb or a vital organ of the patient requiring immediate treatment and the physician believes that delay in obtaining consent would endanger the life, a limb or a vital organ of the patient.

Restriction


(3) Subclause (2) (b) (iii) only authorizes the giving of such treatment as is necessary to preserve the life, a limb or a vital organ of the patient.

Psychosurgery

(4) The consent to psychiatric and other related medical treatment,


- (a) of an involuntary patient; or

- (b) of a person authorized by this Act to consent on behalf of a patient,

does not include and shall not be deemed to include psychosurgery. 

(5) A person authorized to give or refuse consent on behalf of a patient shall consider the following factors to determine whether a specified psychiatric treatment and other related medical treatment are in the best interests of a patient,


Best interests

- (a) whether the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment;
- (b) whether the mental condition of the patient will improve or is likely to improve without the specified psychiatric treatment;
- (c) whether the anticipated benefit from the specified psychiatric treatment and other related medical treatment outweighs the risk of harm to the patient; and
- (d) whether the specified psychiatric treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c). 

12. The said Act is further amended by renumbering section 35a, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, as section 35d and by adding thereto the following sections:

35a.—(1) The attending physician of an involuntary patient may apply to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to the patient where the patient is not mentally competent,

Application to review board

- (a) if a person authorized under section 1a to consent to such treatment on the patient's behalf has refused to consent; or
- (b) under the circumstances described in subsection 1a (3). 

(2) The review board shall not consider an application unless it is accompanied by statements signed by the attending physician and a psychiatrist who is not a member of the medi-

Material on application

cal staff of the psychiatric facility, each stating that they have examined the patient and that they are of the opinion that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment;
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment;
- ➡ (c) the anticipated benefit from the specified psychiatric treatment and other related medical treatment outweighs the risk of harm to the patient; and
- (d) the specified psychiatric treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c). ▲

Reasons
for
opinions

(3) Each of the opinions in the statements described in subsection (2) shall be supported with reasons.

Basis for
decision

(4) The review board by order may authorize the giving of the specified psychiatric and other related medical treatment if it is satisfied that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment;
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment;
- ➡ (c) the anticipated benefit from the specified psychiatric treatment and other related medical treatment outweighs the risk of harm to the patient; and
- (d) the specified psychiatric treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c). ▲

Terms and
conditions

(5) An order may include terms and conditions and shall specify the period of time during which it is effective.

No psycho-
surgery,
E.C.T.

(6) No order of the board is or shall be deemed to be authority to perform psychosurgery or to administer electroconvulsive therapy.

(7) The attending physician, the patient and such other persons as the review board may specify are parties to the proceedings before the review board. Parties

(8) Where the patient is not mentally competent, Idem

- (a) the person authorized under section 1a to consent on the patient's behalf; or
- (b) under the circumstances described in subsection 1a (3), all of the persons described therein,

are also parties to the proceedings.

(9) The officer in charge shall notify the Official Guardian forthwith after an application is made under this section or section 35b in respect of a patient determined to be not mentally competent to consent to psychiatric and other related medical treatment where it appears to the officer in charge that the patient will not be represented at the forthcoming hearing. Notice to Official Guardian

(10) Upon receiving a notice under subsection (9), the Official Guardian shall represent the patient at the hearing of the application unless the Official Guardian is satisfied that another person will represent the patient. Official Guardian to ensure patient represented

(11) Where a party appeals an order authorizing the providing of specified psychiatric and other related medical treatment or a specified course of psychiatric and other related medical treatment to a patient, the treatment or course of treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to. Treatment pending appeal

(12) Sections 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1). Procedure

35b.—(1) A patient determined or presumed to be not mentally competent for the purpose of section 1a, 35 or 35a may apply in the prescribed form to the review board to inquire into whether the patient is not mentally competent. Application for review of patient determined incompetent

(2) If an application is made under subsection (1), the proposed psychiatric treatment shall not be given until the matter is determined by the review board or, where the patient appeals its decision, until the matter is finally determined, unless otherwise ordered by a judge of the court appealed to. Idem

Idem (3) Sections 33, 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Treatment
for persons
detained
under
R.S.C. 1970,
c. C-34

35c.—(1) Sections 35 and 35b apply with necessary modifications to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada), as if the person were an involuntary patient.

Idem

(2) Section 35a applies with necessary modifications to a person where the review board is satisfied that the person,

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

(a) is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada); and


(b) is suffering from mental disorder of a nature or quality that likely would result in,

(i) serious bodily harm to the person,

(ii) serious bodily harm to another person, or

(iii) imminent and serious physical impairment of the person,

if the person did not remain in the custody of a psychiatric facility,

as if the person were an involuntary patient. 

Commence-
ment

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

Short title

14. The short title of this Act is the *Mental Health Amendment Act, 1987*.





Bill 190

*(Chapter 37
Statutes of Ontario, 1987)*

An Act to amend the Mental Health Act

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	January 28th, 1987
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	June 15th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill 190

1987

An Act to amend the Mental Health Act

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

1.—(1) Section 1 of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following clause:

- (ba) “informal patient” means a person who is a patient in a psychiatric facility under the authority of a parent, guardian or committee of the person appointed for the patient under the *Mental Incompetency Act*.

R.S.O. 1980,
c. 264

(2) Clause 1 (j) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following clause:

- (sa) “related medical treatment” means medical treatment or procedures necessary for,
- (i) the safe and effective administration of the psychiatric treatment, or
 - (ii) the control of the unwanted effects of the psychiatric treatment.

2. The said Act is amended by adding thereto the following sections:

1a.—(1) A person may give or refuse consent on behalf of a patient who is not mentally competent if the person has attained the age of sixteen years, is apparently mentally competent, is available and willing to give or refuse consent and is described in one of the following paragraphs:

Substitute
consent

R.S.O. 1980,
c. 264

1. The committee of the person appointed for the patient under the *Mental Incompetency Act*.
2. The patient's representative appointed under section 1b or 1c.
3. The person to whom the patient is married or the person of the opposite sex with whom the patient is living outside marriage in a conjugal relationship or was living outside marriage in a conjugal relationship immediately before being admitted to the psychiatric facility, if in the case of unmarried persons they,
 - i. have cohabited for at least one year,
 - ii. are together the parents of a child, or
 - iii. have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*.
4. A child of the patient.
5. A parent of the patient or a person who has lawful custody of the patient.
6. A brother or sister of the patient.
7. Any other next of kin of the patient.
8. The Official Guardian.

1986, c. 4

Refusal

(2) If a person in a category in subsection (1) refuses consent on the patient's behalf, the consent of a person in a subsequent category is not valid.

Preference

(3) If two or more persons who are described in different paragraphs of subsection (1) claim the authority to give or refuse consent on behalf of a patient, the claim of the person who is described in the paragraph occurring first in that subsection prevails.

Conflict

(4) If two or more persons who are described in the same paragraph of subsection (1) claim the authority to give or refuse consent on behalf of a patient, if they disagree about whether to give or refuse consent and if their claims would prevail over any other claims under subsection (3), the refusal prevails.

(5) A person described in paragraph 3, 4, 5, 6 or 7 of subsection (1) may not give or refuse consent on a patient's behalf unless the person makes a statement in writing certifying,

Consent
by
relative

- (a) the person's relationship to the patient;
- (b) that the person has been in personal contact with the patient over the preceding twelve month period;
- (c) that the person is willing to assume the responsibility for consent or refusing consent; and
- (d) that the person is not aware of any other person described in the same paragraph or in a previous paragraph who claims the authority to give or refuse consent.

(6) A person authorized to give or refuse consent on behalf of a patient shall do so in accordance with the wishes of the patient if the person knows that the patient expressed any such wishes when apparently mentally competent and in accordance with the best interests of the patient if the person does not know of any such wishes.

Basis for
substitute
consent

(7) A person who seeks another person's consent on a patient's behalf is entitled to rely on the accuracy of the other person's written statement under subsection (5), unless it is not reasonable to do so.

Reliance
on
statement

(8) A person seeking consent on behalf of a patient is not liable for failing to request the consent of another person entitled to give or refuse consent on behalf of the patient if, after reasonable inquiries, the person did not find the other person.

Reasonable
inquiries

1b.—(1) A person who has attained the age of sixteen years and is mentally competent to do so has the right to appoint a representative who has attained the age of sixteen years and is apparently mentally competent to give or refuse consent on behalf of the person for the purpose of paragraph 2 of subsection 1a (1).

Patient's
representative

(2) An appointment of a representative shall be made in writing in the presence of a witness.

Appointment
in writing

(3) An appointment may be subject to such conditions and restrictions, if any, as are contained in it and not inconsistent with this Act.

Conditions

- Notice by physician (4) The attending physician shall inform the patient in writing of the patient's right under subsection (1) within forty-eight hours after the patient is admitted or registered to the psychiatric facility.
- Transitional (5) As soon as practicable, the officer in charge shall inform all persons who are patients of the facility at the time of the coming into force of this section in writing of their rights under subsection (1).
- Contents of notice (6) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act.
- Appointment of representative (7) If a patient gives or transmits to the officer in charge a statement in writing appointing a representative, the officer in charge shall transmit the statement to the representative forthwith.
- Revocation (8) A person who has appointed a representative may revoke in writing the appointment and may appoint in writing a new representative while mentally competent to do so, and subsection (7) applies with necessary modifications in respect of the revocation and new appointment.
- Board appointed representative **1c.**—(1) A patient who has attained the age of sixteen years, is not mentally competent to appoint a representative and has not named a representative under section 1b, has the right to apply to the board for the appointment of a representative requested by the patient to give or refuse consent on behalf of the patient for the purpose of paragraph 2 of subsection 1a (1).
- Notice by physician (2) An attending physician who determines that a patient is not competent to appoint a representative shall as soon as practicable inform the patient in writing of the patient's right under subsection (1).
- Contents of notice (3) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act.
- Parties (4) The patient, the person proposed as a representative, the person who would be authorized under subsection 1a (1) to consent on behalf of the patient if no order is made by the board under this section and such other persons as the board may specify are parties to a proceeding before the board under this section.

(5) The board shall appoint a person as a representative for a patient only if the patient approves of the appointment and the board is satisfied that the person, ^{Appointment}

- (a) has attained the age of sixteen years;
- (b) is apparently mentally competent to give or refuse consent on behalf of the patient;
- (c) consents to the appointment; and
- (d) in the board's opinion it is in the patient's interest to appoint the person as a representative.

(6) The board may appoint a person other than the person requested by the patient to be the patient's representative. ^{Idem}

(7) An appointment made by the board may be subject to such conditions and restrictions, if any, as are approved by the patient, set out in the appointment and not inconsistent with this Act. ^{Conditions}

1d.—(1) A person who has not attained sixteen years of age is presumed to be not mentally competent to consent for the purposes of this Act. ^{Person sixteen years of age}

(2) The presumption that a person is not mentally competent is subject to a determination by the attending physician, the review board or a court, pursuant to subsection 29a (14), section 35 or 35b, that the person is mentally competent. ^{Limitation}

3. Subsection 15 (3) of the said Act is repealed.

4.—(1) Clause 29 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) "patient" includes former patient, out-patient, former out-patient and anyone who is or has been detained in a psychiatric facility.

(2) Clause 29 (3) (a) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "has attained the age of sixteen years and" in the first and second lines.

(3) Clause 29 (3) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "has not attained the age of sixteen years or" in the first and second lines.

(4) The said clause 29 (3) (b) is further amended by striking out "nearest relative of the patient" in the third and fourth lines and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(5) Clause 29 (3) (e) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "has not attained the age of sixteen years or" in the second line.

(6) The said clause 29 (3) (e) is further amended by striking out "nearest relative of the patient" in the third and fourth lines and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(7) Subsection 29 (3a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(8) Clause 29 (9) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "nearest relative of the patient" in the third line and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(9) Clause 29 (9) (c) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out "nearest relative of the patient" in the sixth and seventh lines and inserting in lieu thereof "person authorized under section 1a to consent on behalf of the patient".

5.—(1) Subsection 29a (1) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Patient access
to clinical
record

(1) A patient who is mentally competent is entitled to examine and copy at the patient's own expense the clinical record of the patient or a copy of the record.

(2) Subsection 29a (14) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by inserting after "determined" in the first line "or presumed".

(3) Subsection 29a (16) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out "has not attained the age of sixteen years or" in the first and second lines and by striking out "patient's nearest relative" in the second and third lines and inserting in

lieu thereof "person authorized under section 1a to consent on behalf of the patient".

(4) Subsection 29a (17) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out "patient's nearest relative" in the third line and inserting in lieu thereof "person".

6. Section 30a of the said Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 66 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following subsections:

(1c) The attending physician of a person who is the subject of an application for assessment under section 9 or of an order under section 26 shall give or transmit to the person written notice of the application or order.

Notice of application or order

(1d) A physician who applies to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to a patient shall give or transmit written notice of the application to the patient and to the area director for the area, in accordance with the *Legal Aid Act*, in which the psychiatric facility is located.

Notice of application for order

R.S.O. 1980, c. 234

(1e) The notices specified in subsections (1), (1b) and (1c), excluding the notice to the area director, shall inform the patient or person,

Information

(a) of the reasons for the detention; and

(b) that he or she has the right to retain and instruct counsel without delay.

7.—(1) Subsection 31 (2) of the said Act is amended by adding at the commencement thereof "In addition to the applications under subsection (4)".

(2) Section 31 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following subsection:

(5) A waiver by an involuntary patient of an application or of the right to an application mentioned in subsection (4) is a nullity.

Waiver

8. Section 32 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Hearing
deemed
abandoned

32. Except as provided in subsection 33f (1e) or (1j), where an appeal is taken against a certificate of involuntary admission or a certificate of renewal and the time period for the certificate under subsection 14 (4) expires before a decision is rendered, the appeal shall be deemed to be abandoned whether or not the certificate is renewed.

9. Section 32a of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Review of
admission or
renewal

32a.—(1) On the hearing of an application, the review board shall promptly review the patient's status to determine whether or not the prerequisites set out in this Act for admission as an involuntary patient continue to be met at the time of the hearing of the application.

Confirming
order

(2) The review board by order may confirm the patient's status as an involuntary patient if the review board determines that the prerequisites set out in this Act for admission as an involuntary patient were met at the time of the hearing of the application.

Rescinding
order

(3) The review board by order shall rescind the certificate if the review board determines that the prerequisites set out in this Act for admission as an involuntary patient were not met at the time of the hearing of the application.

Application
of order

(4) An order of the review board confirming or rescinding a certificate applies to the certificate of involuntary admission or the certificate of renewal in force immediately before the making of the order.

10.—(1) Subsection 33f (1d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by inserting after "days" in the fifth line "excluding Saturday and holidays".

(2) Subsection 33f (1e) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

Extension of
certificate for
appeal

(1e) Where, before a certificate of involuntary admission, a certificate of renewal or an extension of a certificate expires, a party to the appeal other than the patient or the person acting on the patient's behalf applies to the court for an extension of the certificate beyond the time period for the certificate under subsection 14 (4), the court may by order extend the effectiveness of the certificate.

(3) Subsection 33f (1f) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out "or" at the end of clause (b), by adding "or" at the end of clause (c) and by adding thereto the following clause:

- (d) until the attending physician confirms under subsection (1k) that the patient does not meet the criteria set out in subsection 14 (5).

(4) Section 33f of the said Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 67 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by adding thereto the following subsections:

(1j) Where an appeal is taken from a decision of the review board to confirm a certificate of involuntary admission or a certificate of renewal, the certificate is effective until, Effectiveness
of certificate

- (a) the certificate is confirmed or rescinded by the court;
- (b) the certificate is rescinded by the attending physician;
- (c) forty-eight hours after notice is given to the attending physician that the party appealing has withdrawn the appeal; or
- (d) the attending physician confirms under subsection (1k) that the patient does not meet the criteria set out in subsection 14 (5).

(1k) Notwithstanding subsections (1) to (1i), the attending physician shall examine the patient at the intervals that would have applied under section 14 and shall complete and file with the officer in charge a statement in writing as to whether or not the patient meets the criteria set out in subsection 14 (5). Examination

11. Section 35 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

35.—(1) In this section and in sections 35a, 35b and 35c, Interpretation

- (a) "electroconvulsive therapy" means the procedure for the treatment of certain mental disorders that induces, by electrical stimulation of the brain, a series of generalized convulsions;

- (b) "having the ability to understand the subject matter in respect of which consent is requested" in the definition of "mentally competent" means having the ability to understand the nature of the illness for which treatment is proposed and the treatment proposed; and
- (c) "psychosurgery" means any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or which inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions or to diagnose or treat intractable physical pain or epilepsy where these conditions are clearly demonstrable.

Consent
to
treatment

(2) Psychiatric and other related medical treatment shall not be given to a patient,

- (a) where the patient is mentally competent, without the voluntary, informed consent of the patient;
- (b) where the patient is not mentally competent,
 - (i) without the consent of a person authorized by section 1a to consent on behalf of the patient,
 - (ii) unless the review board has made an order authorizing the giving of the specified psychiatric and other related medical treatment, or
 - (iii) unless a physician certifies in writing that there is imminent and serious danger to the life, a limb or a vital organ of the patient requiring immediate treatment and the physician believes that delay in obtaining consent would endanger the life, a limb or a vital organ of the patient.

Restriction

(3) Subclause (2) (b) (iii) only authorizes the giving of such treatment as is necessary to preserve the life, a limb or a vital organ of the patient.

Psycho-
surgery

(4) The consent to psychiatric and other related medical treatment,

- (a) of an involuntary patient; or

- (b) of a person authorized by this Act to consent on behalf of a patient,

does not include and shall not be deemed to include psychosurgery.

(5) A person authorized to give or refuse consent on behalf of a patient shall consider the following factors to determine whether a specified psychiatric treatment and other related medical treatment are in the best interests of a patient,

- (a) whether the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment;
- (b) whether the mental condition of the patient will improve or is likely to improve without the specified psychiatric treatment;
- (c) whether the anticipated benefit from the specified psychiatric treatment and other related medical treatment outweighs the risk of harm to the patient; and
- (d) whether the specified psychiatric treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c).

12. The said Act is further amended by renumbering section 35a, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, as section 35d and by adding thereto the following sections:

35a.—(1) The attending physician of an involuntary patient may apply to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to the patient where the patient is not mentally competent,

- (a) if a person authorized under section 1a to consent to such treatment on the patient's behalf has refused to consent; or
- (b) under the circumstances described in subsection 1a (4).

(2) The review board shall not consider an application unless it is accompanied by statements signed by the attending physician and a psychiatrist who is not a member of the medi-

cal staff of the psychiatric facility, each stating that they have examined the patient and that they are of the opinion that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment;
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment;
- (c) the anticipated benefit from the specified psychiatric treatment and other related medical treatment outweighs the risk of harm to the patient; and
- (d) the specified psychiatric treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c).

Reasons
for
opinions

(3) Each of the opinions in the statements described in subsection (2) shall be supported with reasons.

Basis for
decision

(4) The review board by order may authorize the giving of the specified psychiatric and other related medical treatment if it is satisfied that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment;
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment;
- (c) the anticipated benefit from the specified psychiatric treatment and other related medical treatment outweighs the risk of harm to the patient; and
- (d) the specified psychiatric treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c).

Terms and
conditions

(5) An order may include terms and conditions and shall specify the period of time during which it is effective.

No psycho-
surgery,
E.C.T.

(6) No order of the board is or shall be deemed to be authority to perform psychosurgery or to administer electroconvulsive therapy.

(7) The attending physician, the patient and such other persons as the review board may specify are parties to the proceedings before the review board. Parties

(8) Where the patient is not mentally competent, Idem

(a) the person authorized under section 1a to consent on the patient's behalf; or

(b) under the circumstances described in subsection 1a (4), all of the persons described therein,

are also parties to the proceedings.

(9) The officer in charge shall notify the Official Guardian forthwith after an application is made under this section or section 35b in respect of a patient determined to be not mentally competent to consent to psychiatric and other related medical treatment where it appears to the officer in charge that the patient will not be represented at the forthcoming hearing. Notice to Official Guardian

(10) Upon receiving a notice under subsection (9), the Official Guardian shall represent the patient at the hearing of the application unless the Official Guardian is satisfied that another person will represent the patient. Official Guardian to ensure patient represented

(11) Where a party appeals an order authorizing the providing of specified psychiatric and other related medical treatment or a specified course of psychiatric and other related medical treatment to a patient, the treatment or course of treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to. Treatment pending appeal

(12) Sections 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1). Procedure

35b.—(1) A patient determined or presumed to be not mentally competent for the purpose of section 35 may apply in the prescribed form to the review board to inquire into whether the patient is not mentally competent. Application for review of patient determined incompetent

(2) If an application is made under subsection (1), the proposed psychiatric treatment shall not be given until the matter is determined by the review board or, where the patient appeals its decision, until the matter is finally determined, unless otherwise ordered by a judge of the court appealed to. Idem

Idem (3) Sections 33, 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Treatment
for persons
detained
under
R.S.C. 1970,
c. C-34

35c.—(1) Sections 35 and 35b apply with necessary modifications to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada), as if the person were an involuntary patient.

Idem (2) Section 35a applies with necessary modifications to a person where the review board is satisfied that the person,

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

(a) is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada); and

(b) is suffering from mental disorder of a nature or quality that likely would result in,

(i) serious bodily harm to the person,

(ii) serious bodily harm to another person, or

(iii) imminent and serious physical impairment of the person,

if the person did not remain in the custody of a psychiatric facility,

as if the person were an involuntary patient.

Commence-
ment

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

Short title

14. The short title of this Act is the *Mental Health Amendment Act, 1987*.

Bill Pr1

An Act respecting Canada Christian College and School of Graduate Theological Studies

Mr. Allen

1st Reading June 8th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr1

1987

**An Act respecting Canada Christian College and
School of Graduate Theological Studies**

Whereas Elmer McVety, W. Kenneth Robinson and John Wesley Tobey hereby represent that Canada Christian College and School of Graduate Theological Studies was founded in June of 1974 with the support of the Association for Education and Evangelism to establish, maintain and operate Christian Schools; that since its inception courses of study leading to diplomas in Bible and religious training have been conducted; and whereas the said applicants hereby apply for special legislation providing for the incorporation of Canada Christian College and School of Graduate Theological Studies as an institution having the power to grant degrees in the field of religious study; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“academic unit” means a faculty, institute, department or other academic division of the College so designated by the Board;

“Board” means the Board of Trustees of the College;

“College” means Canada Christian College and School of Graduate Theological Studies incorporated under section 2;

“faculty” means all persons employed by the College who hold the academic rank of professor, lecturer, instructor or librarian;

“student” means a person who is registered as such in a program or course of study at the College that leads to a degree, diploma or certificate of the College.

Incorporation

2. The members of the Board are hereby constituted a body corporate without share capital under the name of "Canada Christian College and School of Graduate Theological Studies".

Objects

3. The objects of the College are,

- (a) to provide instruction in higher Christian education for Christian faith and practice;
- (b) to prepare students to serve with competence in full-time Christian professions both at home and abroad; and
- (c) to equip students not anticipating full-time Christian service for positions of lay leadership and activity in Christian ministries.

Composition of Board

4.—(1) The Board shall be composed of the president of the College who shall be an *ex officio* member and not fewer than ten members and not more than fifteen members elected for a term of three years by the membership, provided that said members shall include,

- (a) at least three members elected as representatives of the Association for Education and Evangelism;
- (b) at least one member elected as a representative of the Presbyterian General Assembly (Korean-Canada);
- (c) at least one member elected as a representative of Pentecostal Holiness Denomination (Canadian District); and
- (d) at least one member elected as a representative of Senior Minister of Non-Denominational "Faith-Cathedral".

Term of office

(2) Subject to subsection (4), members of the Board shall hold office for a term of three years and shall not be eligible to serve for more than nine consecutive years but on the expiration of one year after having completed the ninth consecutive year a person is again eligible for membership on the Board.

Idem

(3) Service on the first Board or for the balance of an unexpired term shall not be included in the calculation of the nine consecutive years referred to in subsection (2).

(4) The Board may by by-law provide for the election and retirement in rotation of the members of the Board and may determine that one or more of the first members so elected shall serve for an initial term of less than three years.

Staggered terms

(5) Until the Board is reconstituted in accordance with subsection (1), the members of the Board shall be the persons named in the Schedule hereto.

First Board

(6) Members of the Board shall serve without remuneration but may be reimbursed for reasonable expenses incurred by them in the performance of their duties as members of the Board.

Remuneration and expenses

(7) No person shall be elected as a member of the Board unless the person is a Canadian citizen.

Canadian citizenship

(8) Where a vacancy occurs among the members of the Board, the Board may appoint a new member to fill the vacancy and the person so appointed shall serve for the balance of the unexpired term of the vacating member.

Vacancies

5. The government, conduct, management and control of the College and of its property, revenues, expenditures, business and affairs are vested in the Board and the Board has all powers necessary or convenient to perform its duties and achieve the objects and purposes of the College including, without limiting the generality of the foregoing, the power,

Powers

- (a) to appoint the president of the College who shall be the chief academic officer and to define the duties and responsibilities of the president;
- (b) to appoint, promote, grant tenure and leave to and to suspend and remove members of the faculty and the academic officers;
- (c) to appoint committees and delegate thereto power and authority to act for the Board with respect to any matter or class of matters, but where power and authority to act for the Board are delegated to a committee, a majority of the members of the committee shall be members of the Board;
- (d) to manage the academic affairs of the College;
- (e) to award diplomas and certificates and to grant the degrees of Associate of Theology, Bachelor of Biblical Studies, Bachelor of Theology, Bachelor of Religious Education, Master of Theology, Master of

Biblical Studies, Master of Religious Education, Master of Divinity, Doctor of Ministry and Doctor of Theology;

(f) to confer honorary degrees; and

(g) to enact by-laws respecting the doctrinal statement of the College.

Chairman

6. There shall be a chairman of the Board elected by and from the Board who shall preside at all meetings of the Board.

Meetings open to public

7.—(1) Subject to subsections (2) and (3), meetings of the Board shall be open to the public and prior notice of such meetings shall be given to the members of the Board and to the public in such manner as the Board by by-law shall determine and no person shall be excluded from a meeting except for improper conduct as determined by the Board.

In camera meetings

(2) Where matters confidential to the College are to be considered at a meeting of the Board, the part of the meeting concerning such matters may be held *in camera*.

Idem

(3) Where a matter of a personal nature concerning an individual may be considered at a meeting of the Board, the part of the meeting concerning the individual shall be held *in camera* unless there is a mutual agreement to the contrary by the Board and the individual.

By-laws

(4) The by-laws of the College shall be open to examination by the public during normal office hours.

Idem

(5) The College shall publish its by-laws from time to time in such manner as the Board considers proper.

Audit

R.S.O. 1980,
c. 405

8.—(1) The Board shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and transactions of the College at least once each year.

Financial report

(2) The annual audited statement of the College shall be made available to all supporters of the College in such manner as the Board may determine.

Non-profit corporation

9. The College shall be carried on without the purpose of gain for the members of the Board and all profits or other accretions to the College shall be used in promoting its objects.

10. Upon the dissolution of the College and after the payment of all debts and liabilities, the remaining property of the College shall be distributed to one or more recognized charitable organizations in Canada having objects of an educational nature as similar as possible to those of the College. Dissolution

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

12. The short title of this Act is the *Canada Christian College and School of Graduate Theological Studies Act, 1987*. Short title

SCHEDULE

First Trustees

Dr. Elmer S. McVety, M.A., Th.D., LL.D., North York, Ontario, President, Canada Christian College

Dr. W. Kenneth Robinson, O.C., LL.D., Toronto, Ontario, Lawyer, Member of Canadian Parliament

Dr. John Wesley Tobey, B.A., M.Div., Th.D., Hamilton, Ontario, Minister, United Church of Canada

Dr. Harvey Eugene Atkinson Sparling, B.A., B.Th., M.A., M.Div., Th.D., North York, Ontario, Educator, Toronto Board of Education

Dr. Roger Hambley, M.A., Ph.D., Toronto, Ontario, Administrator and Professor of Psychology

Mr. Paul W. Johnson, Winnipeg, Manitoba, Director, Association for Education and Evangelism

Rev. A. W. McVety, B.R.E., Calgary, Alberta, Senior Minister, (C. & M.A.) Director, Association for Education and Evangelism

Mr. Gregory Crichton, Hamilton, Ontario, Teacher, Mohawk College, Director, Association for Education and Evangelism

Rev. Samuel Chang, B.A., M.Div., President, Presbyterian General Assembly (Korea—Canada)

Dr. Harry Nunn, M.Div., D.Min., Bishop, Pentecostal Holiness Denomination

Dr. Paul Melnichuk, D.D., Senior Minister, "Prayer Palace"



Bill Pr2

An Act to revive Adona Properties Limited

Ms Fish

1st Reading April 30th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr2

1987

An Act to revive Adona Properties Limited

Whereas Irwin Kallman and Jeffrey Sandelman represent that Adona Properties Limited, hereinafter called the Corporation, was incorporated by letters patent dated the 23rd day of October, 1970; that the Minister of Consumer and Commercial Relations by order dated the 19th day of December, 1979, and made under the authority of subsection 251 (3) of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, cancelled the certificate of incorporation of the Corporation for default in complying with *The Corporations Tax Act, 1972*, being chapter 143, and declared the Corporation to be dissolved on the 19th day of December, 1979; that the applicants are the beneficial owners of all the common shares of the Corporation; that the Corporation at the time of its dissolution owned certain assets and that it is desirable that the Corporation be revived in order to deal with the assets; and whereas the applicant hereby applies for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Preamble

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

1. Adona Properties Limited is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Revival

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

Commencement

3. The short title of this Act is the *Adona Properties Limited Act, 1987*.

Short title



Bill Pr2

*(Chapter Pr9
Statutes of Ontario, 1987)*

An Act to revive Adona Properties Limited

Ms Fish

<i>1st Reading</i>	April 30th, 1987
<i>2nd Reading</i>	June 8th, 1987
<i>3rd Reading</i>	June 8th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr2

1987

An Act to revive Adona Properties Limited

Whereas Irwin Kallman and Jeffrey Sandelman represent that Adona Properties Limited, hereinafter called the Corporation, was incorporated by letters patent dated the 23rd day of October, 1970; that the Minister of Consumer and Commercial Relations by order dated the 19th day of December, 1979, and made under the authority of subsection 251 (3) of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, cancelled the certificate of incorporation of the Corporation for default in complying with *The Corporations Tax Act, 1972*, being chapter 143, and declared the Corporation to be dissolved on the 19th day of December, 1979; that the applicants are the beneficial owners of all the common shares of the Corporation; that the Corporation at the time of its dissolution owned certain assets and that it is desirable that the Corporation be revived in order to deal with the assets; and whereas the applicant hereby applies for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Preamble

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

1. Adona Properties Limited is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities and debts as at the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Revival

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

Commencement

3. The short title of this Act is the *Adona Properties Limited Act, 1987*.

Short title



Bill Pr4

An Act respecting The Ottawa Civil Service Recreational Association

Mr. Bennett

1st Reading June 8th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr4

1987

**An Act respecting
The Ottawa Civil Service Recreational Association**

Whereas The Ottawa Civil Service Recreational Association, herein called the Association, hereby represents that it was incorporated by letters patent dated the 8th day of January, 1941; that the Association has a leasehold interest in certain lands and premises known municipally as 2451 Riverside Drive in the City of Ottawa in The Regional Municipality of Ottawa-Carleton, and more particularly described in the Schedule hereto, in which and on which it operates certain facilities and recreational and cultural programs for the benefit of the federal public service employees in general and more particularly for the federal public service employees of the City of Ottawa and for other residents of the City of Ottawa; that it is desirable that the real property and leasehold interests of the Association be exempted from taxation for municipal and school purposes, other than local improvement rates; and whereas the Association hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1.—(1) The council of The Corporation of the City of Ottawa may pass by-laws exempting the land, as defined in the *Assessment Act*, being the land and premises described in the Schedule, or any portion thereof, from taxes for municipal and school purposes, other than local improvement rates, so long as the land is owned or leased by the Association and occupied and used solely for the purposes of the Association.

Tax exemption
R.S.O. 1980,
c. 31

(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

Conditions

2. A by-law passed under section 1 may be retroactive to the 1st day of January, 1987.

Retroactive
by-law

Deemed
exemption
R.S.O. 1980,
c. 439

3. For the purposes of subsection 121 (10) of the *Regional Municipality of Ottawa-Carleton Act*, the exemption from taxation granted under section 1 shall be deemed to be an exemption provided under section 3 of the *Assessment Act*.

Repeal

4. *The Ottawa Civil Service Recreational Association Act, 1960-61*, being chapter 121, is repealed.

Commence-
ment

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

Short title

6. The short title of this Act is the *Ottawa Civil Service Recreational Association Act, 1987*.

SCHEDULE

The land and premises in the Township of Gloucester (now within the limits of the City of Ottawa) in the County of Carleton being composed of part of lots 19 and 20, Junction Gore of the said Township of Gloucester and more particularly described as follows:

PREMISING that the partition line, as described in Instrument No. 23936, and dividing that part of Lot 19, formerly owned by Hugh Braddish Billings, from that part of said Lot formerly owned by Charles M. Billings, has a bearing of north 84 degrees 22 minutes 53 seconds east, and relating all bearings herein thereto.

COMMENCING at the intersection of the division line between lots 19 and 20, Junction Gore, with the northeasterly boundary of that part of Lot 19 described in Instrument No. 39625 and being now the property of the Federal District Commission;

THENCE south 31 degrees 21 minutes east and following the southeasterly prolongation of the northeasterly boundary of that part of Lot 19, 111.21 feet, more or less, to a point in a line drawn parallel with the division line between lots 19 and 20, Junction Gore, at a distance of 100 feet measured southerly therefrom and at right angles thereto;

THENCE north 84 degrees 35 minutes 53 seconds east, and following the said parallel line, 790 feet, more or less, to a point in a line drawn at right angles with the southerly boundary of Lot 19 and passing through a point in the said division line between the north and south halves of Lot 19, distant 250 feet measured westerly from the southeast angle of the lands described in Instrument No. 29128;

THENCE north 5 degrees 24 minutes 07 seconds west and at right angles to the southerly boundary of Lot 19, 1,290 feet, more or less, to the southeasterly boundary of that part of Lot 19 described in Instrument No. 6495 and owned by the Federal District Commission;

THENCE southwesterly and following the southeasterly boundary of Instrument No. 6495, 1,312 feet, more or less, to its intersection with the northeasterly boundary of that part of Lot 19 described in Instrument No. 39625;

THENCE south 31 degrees 21 minutes east and following the northeasterly boundary of that part of Lot 19 described in Instrument No. 39625, 369 feet, more or less, to the point of commencement.

Bill Pr5

An Act respecting Great Lakes Bible College

Mr. Andrewes

1st Reading April 30th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to establish a college with the power to grant degrees in the field of religious study.

Bill Pr5**1987****An Act respecting Great Lakes Bible College**

Whereas Great Lakes Christian College hereby represents that it was incorporated by letters patent in 1950 for the purpose of establishing, maintaining and operating Christian schools; and whereas Great Lakes Christian College has since that time provided courses of study leading to a high school certificate and has since 1969 provided courses of study leading to post-secondary certificates and diplomas in Bible and religious training; and whereas the applicant hereby applies for special legislation providing for the creation of a new post-secondary college having the power to grant degrees in the field of religious study; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“academic unit” means a faculty, college, institute, department or other academic division of the College so designated by the Board;

“Board” means the Board of Trustees of the College;

“College” means Great Lakes Bible College, as incorporated by this Act;

“faculty” means all persons employed by the College who hold the academic rank of professor, associate professor, lecturer or instructor;

“student” means a person who is registered as such in a program or course of study at the College that leads to a degree or diploma of the College.

2. The members of the Board from time to time are hereby constituted a body corporate under the name of “Great Lakes Bible College”.

College incorporated

- Objects **3.** The objects of the College are,
- (a) to promote religious welfare and Christian unity by teaching the principles of Jesus Christ as contained in the Bible; and
 - (b) to establish, maintain and operate a religious college, meetings, lectures, libraries and camps and to print, publish, sell and distribute literature pertaining thereto.
- Composition of Board **4.—**(1) The Board shall be composed of,
- (a) fifteen persons elected by the members of the Church of Christ who are entitled to vote at the annual meeting for a term of three years; and
 - (b) not more than six additional persons appointed by the Board for a term of one year.
- First Board (2) Until the Board is reconstituted in accordance with subsection (1), the members of the Board shall be the persons named in the Schedule.
- Staggered terms (3) The Board shall by by-law provide for the election and retirement of the members to be elected under clause (1) (a) in rotation.
- Qualifications (4) No person shall be elected as a member of the Board under clause (1) (a) unless the person is a Canadian citizen or a permanent resident of Canada.
- Re-election or re-appointment (5) Members of the Board are eligible for re-election or re-appointment, as the case may be, except that no member of the Board shall serve more than three consecutive terms, but on the expiration of one year after having served the three consecutive terms, the person is again eligible for membership on the Board.
- Idem (6) The limit of three consecutive terms referred to in subsection (5) does not include service on the Board for the balance of an unexpired term for a person who becomes a member of the Board under subsection (7).
- Vacancies (7) If a vacancy on the Board occurs before the expiry of a term of office, the Board, in its sole discretion, shall determine if the vacancy is to be filled and, if so, the manner and procedure for so doing, and the person filling the vacancy shall serve for the balance of the unexpired term of the vacating member.

(8) Members of the Board shall serve without remuneration but may be reimbursed for reasonable expenses incurred by them in the performance of their duties as members of the Board.

No remuneration

5. The government, conduct, management and control of the College and of its property, revenues, expenditures, business and affairs are vested in the Board and the Board has all powers necessary or convenient to perform its duties and achieve the objects and purposes of the College including, without limiting the generality of the foregoing, the power,

Powers

- (a) to appoint the president of the College who shall be the chief academic officer and to define the duties and responsibilities of the president;
- (b) to appoint, promote, grant tenure or leave to, suspend and remove members of the faculty and academic officers;
- (c) to appoint committees and delegate thereto power and authority to act for the Board with respect to any matter or class of matters, but where power and authority to act for the Board are delegated to a committee, a majority of the members of the committee shall be members of the Board;
- (d) to establish and collect fees and charges for tuition and for services of any kind offered by the College and collect fees and charges on behalf of any entity, organization or element of the College;
- (e) to establish from time to time the membership year of the Board; and
- (f) to enact by-laws respecting the doctrinal statement of the College.

6. The chairman of the Board shall preside at all meetings of the Board.

Chairman

7. The Board shall appoint one or more public accountants licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Board at least annually.

Audit
R.S.O. 1980,
c. 405

8. The annual audited statement of the College shall be made available to all supporters of the College in such manner as the Board may determine.

Annual report

Board to
manage
academic
affairs

9. The Board shall manage the academic affairs of the College and shall have the power,

- (a) to establish, change and terminate programs, courses of study and academic units;
- (b) to determine standards of admission to the College and continued registration therein, and the qualifications for graduation;
- (c) to determine all matters related to examinations and the appointment of examiners;
- (d) to award fellowships, scholarships, bursaries, prizes and other marks of academic achievement; and
- (e) to award diplomas, certificates and licentiates and to grant the degrees of Bachelor of Theology and Bachelor of Religious Education.

Open
meeting

10.—(1) Subject to subsections (2) and (3), meetings of the Board shall be open to the public and prior notice of such meetings shall be given to the members of the Board and to the public in such manner as the Board shall determine and no person shall be excluded from a meeting except for improper conduct as determined by the Board.

Exception

(2) If matters confidential to the College are to be considered at a meeting of the Board, the part of the meeting concerning such matters may be held *in camera*.

Idem

(3) If a matter of a personal nature concerning an individual is to be considered at a meeting of the Board, the part of the meeting concerning the individual shall be held *in camera* unless there is a mutual agreement to the contrary by the Board and the individual.

By-laws,
examination

11.—(1) The by-laws of the College shall be open to examination by the public during normal office hours of the College.

Idem,
publication

(2) The College shall publish its by-laws from time to time in such manner as the Board considers proper.

Non-profit
corporation

12. The College shall be carried on without the purpose of gain for the members of the Board and all profits or other accretions to the College shall be used in promoting its objects.

13. Upon the dissolution or winding up of the College and after the payment of all debts and liabilities, the remaining property of the College shall be distributed to or disposed of to a trust fund established by the Board to provide scholarships for students attending Christian schools or for the funding of Christian schools. Dissolution

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

15. The short title of this Act is the *Great Lakes Bible College Act, 1987*. Short title

SCHEDULE

First Board of Trustees of Great Lakes Bible College:

Douglas Tallman

Roy Williams

Ron Knight

Bethel Bailey

John Colyn

Max Craddock

Arthur Fleming

Valerie Lane

Wayne Page

Maurice Pickard

Malcolm Porter

John Smiley

Oliver Tallman

Charles Whitfield



Bill Pr5

*(Chapter Pr10
Statutes of Ontario, 1987)*

An Act respecting Great Lakes Bible College

Mr. Andrewes

<i>1st Reading</i>	April 30th, 1987
<i>2nd Reading</i>	June 29th, 1987
<i>3rd Reading</i>	June 29th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr5

1987

An Act respecting Great Lakes Bible College

Whereas Great Lakes Christian College hereby represents that it was incorporated by letters patent in 1950 for the purpose of establishing, maintaining and operating Christian schools; and whereas Great Lakes Christian College has since that time provided courses of study leading to a high school certificate and has since 1969 provided courses of study leading to post-secondary certificates and diplomas in Bible and religious training; and whereas the applicant hereby applies for special legislation providing for the creation of a new post-secondary college having the power to grant degrees in the field of religious study; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“academic unit” means a faculty, college, institute, department or other academic division of the College so designated by the Board;

“Board” means the Board of Trustees of the College;

“College” means Great Lakes Bible College, as incorporated by this Act;

“faculty” means all persons employed by the College who hold the academic rank of professor, associate professor, lecturer or instructor;

“student” means a person who is registered as such in a program or course of study at the College that leads to a degree or diploma of the College.

2. The members of the Board from time to time are hereby constituted a body corporate under the name of “Great Lakes Bible College”.

College incorporated

Objects

3. The objects of the College are,

- (a) to promote religious welfare and Christian unity by teaching the principles of Jesus Christ as contained in the Bible; and
- (b) to establish, maintain and operate a religious college, meetings, lectures, libraries and camps and to print, publish, sell and distribute literature pertaining thereto.

Composition of Board

4.—(1) The Board shall be composed of,

- (a) fifteen persons elected by the members of the Church of Christ who are entitled to vote at the annual meeting for a term of three years; and
- (b) not more than six additional persons appointed by the Board for a term of one year.

First Board

(2) Until the Board is reconstituted in accordance with subsection (1), the members of the Board shall be the persons named in the Schedule.

Staggered terms

(3) The Board shall by by-law provide for the election and retirement of the members to be elected under clause (1) (a) in rotation.

Qualifications

(4) No person shall be elected as a member of the Board under clause (1) (a) unless the person is a Canadian citizen or a permanent resident of Canada.

Re-election or re-appointment

(5) Members of the Board are eligible for re-election or re-appointment, as the case may be, except that no member of the Board shall serve more than three consecutive terms, but on the expiration of one year after having served the three consecutive terms, the person is again eligible for membership on the Board.

Idem

(6) The limit of three consecutive terms referred to in subsection (5) does not include service on the Board for the balance of an unexpired term for a person who becomes a member of the Board under subsection (7).

Vacancies

(7) If a vacancy on the Board occurs before the expiry of a term of office, the Board, in its sole discretion, shall determine if the vacancy is to be filled and, if so, the manner and procedure for so doing, and the person filling the vacancy shall serve for the balance of the unexpired term of the vacating member.

(8) Members of the Board shall serve without remuneration but may be reimbursed for reasonable expenses incurred by them in the performance of their duties as members of the Board. No remuneration

5. The government, conduct, management and control of the College and of its property, revenues, expenditures, business and affairs are vested in the Board and the Board has all powers necessary or convenient to perform its duties and achieve the objects and purposes of the College including, without limiting the generality of the foregoing, the power, Powers

- (a) to appoint the president of the College who shall be the chief academic officer and to define the duties and responsibilities of the president;
- (b) to appoint, promote, grant tenure or leave to, suspend and remove members of the faculty and academic officers;
- (c) to appoint committees and delegate thereto power and authority to act for the Board with respect to any matter or class of matters, but where power and authority to act for the Board are delegated to a committee, a majority of the members of the committee shall be members of the Board;
- (d) to establish and collect fees and charges for tuition and for services of any kind offered by the College and collect fees and charges on behalf of any entity, organization or element of the College;
- (e) to establish from time to time the membership year of the Board; and
- (f) to enact by-laws respecting the doctrinal statement of the College.

6. The chairman of the Board shall preside at all meetings of the Board. Chairman

7. The Board shall appoint one or more public accountants licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Board at least annually. Audit
R.S.O. 1980,
c. 405

8. The annual audited statement of the College shall be made available to all supporters of the College in such manner as the Board may determine. Annual report

Board to
manage
academic
affairs

9. The Board shall manage the academic affairs of the College and shall have the power,

- (a) to establish, change and terminate programs, courses of study and academic units;
- (b) to determine standards of admission to the College and continued registration therein, and the qualifications for graduation;
- (c) to determine all matters related to examinations and the appointment of examiners;
- (d) to award fellowships, scholarships, bursaries, prizes and other marks of academic achievement; and
- (e) to award diplomas, certificates and licentiates and to grant the degrees of Bachelor of Theology and Bachelor of Religious Education.

Open
meeting

10.—(1) Subject to subsections (2) and (3), meetings of the Board shall be open to the public and prior notice of such meetings shall be given to the members of the Board and to the public in such manner as the Board shall determine and no person shall be excluded from a meeting except for improper conduct as determined by the Board.

Exception

(2) If matters confidential to the College are to be considered at a meeting of the Board, the part of the meeting concerning such matters may be held *in camera*.

Idem

(3) If a matter of a personal nature concerning an individual is to be considered at a meeting of the Board, the part of the meeting concerning the individual shall be held *in camera* unless there is a mutual agreement to the contrary by the Board and the individual.

By-laws,
examination

11.—(1) The by-laws of the College shall be open to examination by the public during normal office hours of the College.

Idem,
publication

(2) The College shall publish its by-laws from time to time in such manner as the Board considers proper.

Non-profit
corporation

12. The College shall be carried on without the purpose of gain for the members of the Board and all profits or other accretions to the College shall be used in promoting its objects.

13. Upon the dissolution or winding up of the College and after the payment of all debts and liabilities, the remaining property of the College shall be distributed to or disposed of to a trust fund established by the Board to provide scholarships for students attending Christian schools or for the funding of Christian schools. Dissolution

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

15. The short title of this Act is the *Great Lakes Bible College Act, 1987*. Short title

SCHEDULE

First Board of Trustees of Great Lakes Bible College:

- Douglas Tallman
- Roy Williams
- Ron Knight
- Bethel Bailey
- John Colyn
- Max Craddock
- Arthur Fleming
- Valerie Lane
- Wayne Page
- Maurice Pickard
- Malcolm Porter
- John Smiley
- Oliver Tallman
- Charles Whitfield



Bill Pr7

An Act respecting the Driving School Association of Ontario Inc.

Mr. Ferraro

1st Reading June 1st, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill provides for the continuation of the Driving School Association of Ontario Inc. as a corporation incorporated under a special Act of the Legislature.

Under the Bill, the members of the Association will be given the exclusive right to use the following designations:

1. Accredited Driving Instructor (A.D.I.),
2. Accredited Senior Instructor (A.S.I.),
3. Accredited Chief Instructor (A.C.I.), and
4. Accredited Driving School (A.D.S.).

Bill Pr7

1987

**An Act respecting the
Driving School Association of Ontario Inc.**

Whereas the Driving School Association of Ontario Inc. hereby represents that it was incorporated under the laws of Ontario by letters patent dated the 21st day of November, 1979; that the Association is desirous of being continued as a corporation for the purpose of carrying out the objects of the Association and of the government and discipline of its members; and whereas the Association considers it desirable to grant to members of the Association the right to use certain designations as set out in section 8; and whereas the Association hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“Association” means the Driving School Association of Ontario Inc.;

“Board” means the board of directors of the Association;

“by-law” means a by-law of the Association;

“registered” means registered as a member under this Act, and “registration” has a corresponding meaning.

2.—(1) The Driving School Association of Ontario Inc. is hereby continued as a corporation without share capital and the persons registered as members of the Association on the day this Act comes into force and such other persons as hereafter become members of the Association constitute the corporation.

Association continued

(2) The members of the Board and the officers of the Association in office immediately prior to the coming into force of

Continuation of present Board

this Act are hereby continued in office until their successors are appointed or elected in accordance with this Act and the by-laws.

Letters
patent
revoked

(3) The letters patent of the Association are revoked, but the revocation of the letters patent does not affect the rights or obligations of the Association or any by-law, resolution or appointment of the Association except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Special Act
corporation

(4) The Association shall be deemed to be a corporation incorporated by a special Act.

Objects

3. The objects of the Association are,

- (a) to improve the professional standards and promote the interests of its members in carrying out their duties as private professional driving instructors in the Province of Ontario;
- (b) to hold examinations and prescribe tests of competency deemed appropriate to qualify for admission to the various categories of membership in the Association;
- (c) to provide formal training and educational facilities to its members;
- (d) to hold conferences and meetings for the discussion of driver education;
- (e) to promote safe driving habits among the public;
- (f) to collect and publish copies of papers, lectures, information and other material and to perform other services of interest to members of the Association;
- (g) to determine and notify members of the Association and the public of by-laws and practices relevant to its members; and
- (h) to maintain discipline among its members.

Board of
directors

4.—(1) The affairs of the Association shall be managed by the board of directors.

Composition

(2) The Board shall consist of,

- (a) the immediate past president of the Association, *ex officio*; and
- (b) not fewer than twenty-one or more than thirty-five members of the Association, as the Board may from time to time determine, elected from the membership of the Association.

(3) The Association shall elect from the membership a president, a vice-president, a controller, a treasurer, a secretary and twelve regional vice-presidents who shall be members of the Board. Chairman,
etc.

(4) The manner of electing the members of the Board, the notification to the electors of the time and place of holding elections, the nominations of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of an equality of votes, the tenure of office of members of the Board and other necessary details shall be as set out in the by-laws. Idem

(5) At any meeting of the Board, a majority of the members constitutes a quorum. Quorum

(6) In the case of the death, resignation or incapacity of any member of the Board, the office shall be declared vacant by the Board and the Board shall fill the vacancy in such manner as may be provided by the by-laws of the Association for the balance of the term and, for the purposes of this subsection, absence from three consecutive meetings of the Board may be treated by the Board as incapacity. Vacancies

(7) The Board shall appoint a registrar, who shall not be a member of the Board, and the registrar shall perform the functions assigned by this Act and such other duties as may be assigned by the Board. Registrar

5. At any general or special meeting, members of the Association may be represented and vote by proxy, but, Proxies

- (a) no proxy shall be exercised by a person who is not a member of the Association; and
- (b) the proxy shall be exercised in accordance with the by-laws on voting and proxies.

6.—(1) The Board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Association and, without restricting the general- By-laws

ity of the foregoing, in addition to the matters specifically provided elsewhere in this Act, the Board may pass by-laws,

- (a) establishing such categories of membership in the Association as the Board considers appropriate and prescribing the qualifications for and conditions of registration for members in the various categories;
- (b) prescribing a curriculum and courses of study to be pursued by candidates for admission to the various classes of membership and for prescribing minimum standards for admission as members of the Association and for granting certificates to candidates who have successfully passed the examinations;
- (c) regulating and governing the conduct of members of the Association in the practice of their business or professions, by prescribing a code of ethics, rules of professional conduct and standards of practice, and by providing for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence;
- (d) prescribing fees payable to the Association;
- (e) governing the calling, holding and conducting of meetings of the Board and of the members of the Association;
- (f) authorizing the spending of funds for any purpose that may tend to advance driver education in the Province, or improve standards of practice in driving instruction, or support and encourage public information and interest in the past and present role of driver education in society;
- (g) providing for the manner in which records and the making of reports are maintained and kept for the Association; and
- (h) providing for the custody and use of the seal of the Association.

Confirmation
of by-laws

(2) Every new by-law or change to an existing by-law is effective when it is passed by the Board but expires with the close of the next annual meeting of the members of the Association held after its passing, unless it is confirmed at the meeting.

(3) The by-laws of the Association shall be open to examination by the public at the head office of the Association during normal office hours. Inspection of
by-law

7.—(1) The Association shall grant a membership in the Association to any individual who applies therefor in accordance with the by-laws, if the individual, Membership

- (a) is of good character;
- (b) is not less than eighteen years of age;
- (c) has complied with the academic and experience requirements specified in the by-laws for the issuance of membership; and
- (d) has passed such examinations or obtained such qualifications as the Board may set or approve in accordance with the by-laws of the Association.

(2) The registrar shall keep a register in which shall be entered the names of all members of the Association in good standing and only those persons so registered are members entitled to the privileges of membership in the Association. Register

(3) The register shall be open to examination by the public at the head office of the Association during normal office hours. Inspection of
register

(4) An individual who is qualified for membership in the Association who has been refused membership or a person who has been subject to a disciplinary sanction under the by-laws may appeal to the Divisional Court from the refusal to grant membership or from the sanction. Appeals

(5) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefore, the registrar shall furnish the party with a certified record of the proceeding that resulted in failure or a refusal to grant membership or the decision of the committee imposing a sanction including any documents received in evidence and the decision or order appealed from. Record

8.—(1) Every registered member of the Association who has satisfied the criteria as set out in the by-laws of the Association may, Designation

- (a) use the designation “Accredited Driving Instructor”, “Accredited Senior Instructor” or “Accredited Chief Instructor”, as the case may be, and

may use after the member's name the initials "A.D.I.", "A.S.I." or "A.C.I.", respectively; and

- (b) if applicable, use the designation "Accredited Driving School" and the initials "A.D.S."

Offence

(2) Any person in Ontario who, not being a registered member of the Association, takes or uses any designation or any set of initials referred to in subsection (1) either alone or in combination with any other word, name, title, initial or description, or implies, suggests or holds out that he or she is an Accredited Driving Instructor, Accredited Senior Instructor, Accredited Chief Instructor or Accredited Driving School is guilty of an offence.

Evidence

(3) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in the capacity as registrar is proof, in the absence of evidence to the contrary, that such a person is the registrar without any proof of the signature or of his or her being in fact the registrar.

Idem

(4) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not registered.

Right to practise unaffected

9. This Act does not affect or interfere with the right of any person who is not a member of the Association to practise as a driving instructor or to operate a driving school in the Province of Ontario.

Surplus

10. Any surplus derived from carrying on the affairs and business of the Association shall be devoted and applied solely in promoting and carrying out its objects and purposes and shall not be divided among its members.

Commencement

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

Short title

12. The short title of this Act is the *Driving School Association of Ontario Inc. Act, 1987*.

Bill Pr8

An Act respecting the City of Toronto

Mr. Offer

1st Reading May 20th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed amendment increases the number of commissioners on The Parking Authority of Toronto from three to five.

SECTION 2. The provision now reads that the Toronto Historical Board shall be composed of one member of council, one member of the board of control and fifteen other members who are not members of council. The proposed amendment would alter the membership to be two members of council and fifteen other members who are not members of council.

SECTION 3. This section amends *The City of Toronto Act, 1961-62*, being chapter 171, to provide that the court of revision may apportion the total charge imposed for sewer or water charges among the owners of units in a row housing building. The section also provides that the apportioned amount shall be a lien on the owner's unit. There is an appeal to the Ontario Municipal Board from a decision of the court of revision.

SECTION 4. The proposed amendment increases the maximum time that council may refuse to issue a demolition permit for certain residential properties from 365 to 1,095 days from the date of the application therefor or the date of the issuance of the building permit for a new building, whichever is later. Where a demolition permit is withdrawn, the proposed amendment increases the time before a further application to demolish may be applied for from 365 to 1,095 days.

Bill Pr8

1987

An Act respecting the City of Toronto

Whereas The Corporation of the City of Toronto, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application; Preamble

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

1. Subsection 3 (2) of *The City of Toronto Act, 1952*, being chapter 139, as re-enacted by the Statutes of Ontario, 1983, chapter Pr30, section 5, is repealed and the following substituted therefor:

(2) The parking authority shall be a public commission and a body corporate and shall consist of five members, each of whom shall be a person qualified to be elected as a member of council and shall be appointed by the council for a term not exceeding the term of the council appointing them and until their successors are appointed. Incorporation and number of members

2. Subsection 5 (2) of *The City of Toronto Act, 1958*, being chapter 160, as amended by the Statutes of Ontario, 1978, chapter 148, section 6, is repealed and the following substituted therefor:

(2) The historical board shall be a local board and a body corporate and shall consist of two members of council and fifteen other members. Incorporation and members

3. *The City of Toronto Act, 1961-62*, being chapter 171, is amended by adding thereto the following section:

1a.—(1) In this section,

Definitions

“row housing” means contiguous residential units separated by party walls and contained in a building other than a single family, double or duplex building;

“special roll” means a roll containing the name of the owner or owners of the building, a description of the land on which the building is erected or enlarged and the amount of the charge imposed on the building.

Apportionment
of special
charge

(2) Where a charge has been imposed under subsection 1 (1) on a building consisting of row housing, the court of revision may, upon the application of the Corporation or by or on behalf of an owner of a unit in the building whose name appears on a special roll, apportion the charge among the residential units in the building in the ratio that their gross floor area bears to the total gross floor area of the building.

Amounts
apportioned
to equal
total charge

(3) In apportioning a charge under subsection (2), the court of revision shall ensure that the total of the amounts apportioned equals the charge imposed.

Charge is
lien on land

(4) Each owner of a residential unit in a building consisting of row housing is liable for the charge apportioned under subsection (2) and the charge is a lien upon the land of such owner.

Appeal to
O.M.B.

R.S.O. 1980,
c. 250

(5) An appeal lies to the Ontario Municipal Board from a decision of the court of revision apportioning a charge and section 52 of the *Local Improvement Act* applies with necessary modifications.

4.—(1) Subsection 1 (2) of the *City of Toronto Act, 1984*, being chapter Pr6, is amended by striking out “365” in the ninth line and inserting in lieu thereof “1,095”.

(2) Subsection 1 (13) of the said Act is amended by striking out “365” in the sixth line and inserting in lieu thereof “1,095”.

Commence-
ment

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

Short title

6. The short title of this Act is the *City of Toronto Act, 1987*.

Bill Pr9

An Act respecting Hamilton Jewish Communal Projects

Mr. Ward

1st Reading June 1st, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr9

1987

**An Act respecting
Hamilton Jewish Communal Projects**

Whereas Hamilton Jewish Communal Projects, herein called the corporation, hereby represents that it was incorporated by letters patent dated the 9th day of March, 1949; that the object of the corporation is to maintain and conduct a community centre and to promote the best interests of the community generally, and, in furtherance of such objects, to provide programmes for junior and senior citizens, sheltered workshops and facilities for general social services; that the corporation is a registered charitable organization within the meaning of the *Income Tax Act* (Canada); that it is desirable that the real property of the corporation situated in the City of Hamilton be exempted or partially exempted from taxation for municipal and school purposes, other than local improvement rates; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

R.S.C. 1952,
c. 148

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

1.—(1) The council of The Corporation of the City of Hamilton may pass by-laws exempting or partially exempting from taxes for municipal and school purposes, other than local improvement rates, the land as defined in the *Assessment Act*, occupied by the corporation, being the lands and premises described in the Schedule, or such other lands as may be acquired in the City of Hamilton, so long as the land is owned, occupied and used solely for the purposes of the corporation.

Tax
exemptionR.S.O. 1980,
c. 31

(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

Conditions

2. For the purposes of subsection 101 (9) of the *Regional Municipality of Hamilton-Wentworth Act*, the exemption from

Deemed
exemption
R.S.O. 1980,
c. 437

- taxation granted under section 1 shall be deemed to be an exemption provided under section 3 of the *Assessment Act*.
- R.S.O. 1980, c. 31
- Retroactive by-law **3.** A by-law passed under section 1 may be retroactive to the 1st day of January, 1986.
- Commence ment **4.** This Act comes into force on the day it receives Royal Assent.
- Short title **5.** The short title of this Act is the *Hamilton Jewish Communal Projects Act, 1987*.

SCHEDULE

Those parcels of land and premises being as follows:

Firstly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), and being composed of all of lots 27 and 28 on the north side of Delaware Avenue registered as Plan Number 225.

Secondly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), and being composed of lots 29 and 30 on the west side of Argue Street (now Gladstone Avenue) registered as Plan Number 225.

Save and except therefrom the northerly thirty-three feet (33 feet) of Lot 30.

Thirdly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), in the Province of Ontario, being composed of lots 23, 24, 25 and 26 fronting on Delaware Avenue (formerly known as Ida Street) registered as Plan Number 225.

Bill Pr9

An Act respecting Hamilton Jewish Communal Projects

Mr. Ward

1st Reading June 1st, 1987

2nd Reading

3rd Reading

Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr9

1987

**An Act respecting
Hamilton Jewish Communal Projects**

Whereas Hamilton Jewish Communal Projects, herein called the corporation, hereby represents that it was incorporated by letters patent dated the 9th day of March, 1949; that the object of the corporation is to maintain and conduct a community centre and to promote the best interests of the community generally, and, in furtherance of such objects, to provide programmes for junior and senior citizens, sheltered workshops and facilities for general social services; that the corporation is a registered charitable organization within the meaning of the *Income Tax Act* (Canada); that it is desirable that the real property of the corporation situated in the City of Hamilton be exempted or partially exempted from taxation for municipal and school purposes, other than local improvement rates; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

R.S.C. 1952,
c. 148

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

1.—(1) The council of The Corporation of the City of Hamilton may pass by-laws exempting or partially exempting from taxes for municipal and school purposes, other than local improvement rates, the land as defined in the *Assessment Act*, occupied by the corporation, being the lands and premises described in the Schedule, so long as the land is owned, occupied and used solely for the purposes of the corporation.

Tax
exemptionR.S.O. 1980,
c. 31

(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

Conditions

2. For the purposes of subsection 101 (9) of the *Regional Municipality of Hamilton-Wentworth Act*, the exemption from taxation granted under section 1 shall be deemed to be an exemption provided under section 3 of the *Assessment Act*.

Deemed
exemption
R.S.O. 1980,
c. 437

Retroactive
by-law

3. A by-law passed under section 1 may be retroactive to the 1st day of January, 1986.

Commence
ment

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

Short title

5. The short title of this Act is the *Hamilton Jewish Communal Projects Act, 1987*.

SCHEDULE

Those parcels of land and premises being as follows:

Firstly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), and being composed of all of lots 27 and 28 on the north side of Delaware Avenue registered as Plan Number 225.

Secondly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), and being composed of lots 29 and 30 on the west side of Argue Street (now Gladstone Avenue) registered as Plan Number 225.

Save and except therefrom the northerly thirty-three feet (33 feet) of Lot 30.

Thirdly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), in the Province of Ontario, being composed of lots 23, 24, 25 and 26 fronting on Delaware Avenue (formerly known as Ida Street) registered as Plan Number 225.

Bill Pr9

*(Chapter Pr11
Statutes of Ontario, 1987)*

An Act respecting Hamilton Jewish Communal Projects

Mr. Ward

<i>1st Reading</i>	June 1st, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr9

1987

**An Act respecting
Hamilton Jewish Communal Projects**

Whereas Hamilton Jewish Communal Projects, herein called the corporation, hereby represents that it was incorporated by letters patent dated the 9th day of March, 1949; that the object of the corporation is to maintain and conduct a community centre and to promote the best interests of the community generally, and, in furtherance of such objects, to provide programmes for junior and senior citizens, sheltered workshops and facilities for general social services; that the corporation is a registered charitable organization within the meaning of the *Income Tax Act* (Canada); that it is desirable that the real property of the corporation situated in the City of Hamilton be exempted or partially exempted from taxation for municipal and school purposes, other than local improvement rates; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

R.S.C. 1952,
c. 148

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

1.—(1) The council of The Corporation of the City of Hamilton may pass by-laws exempting or partially exempting from taxes for municipal and school purposes, other than local improvement rates, the land as defined in the *Assessment Act*, occupied by the corporation, being the lands and premises described in the Schedule, so long as the land is owned, occupied and used solely for the purposes of the corporation.

Tax
exemptionR.S.O. 1980,
c. 31

(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

Conditions

2. For the purposes of subsection 101 (9) of the *Regional Municipality of Hamilton-Wentworth Act*, the exemption from taxation granted under section 1 shall be deemed to be an exemption provided under section 3 of the *Assessment Act*.

Deemed
exemption
R.S.O. 1980,
c. 437

Retroactive
by-law

3. A by-law passed under section 1 may be retroactive to the 1st day of January, 1986.

Commence-
ment

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

Short title

5. The short title of this Act is the *Hamilton Jewish Communal Projects Act, 1987*.

SCHEDULE

Those parcels of land and premises being as follows:

Firstly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), and being composed of all of lots 27 and 28 on the north side of Delaware Avenue registered as Plan Number 225.

Secondly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), and being composed of lots 29 and 30 on the west side of Argue Street (now Gladstone Avenue) registered as Plan Number 225.

Save and except therefrom the northerly thirty-three feet (33 feet) of Lot 30.

Thirdly: in the City of Hamilton in The Regional Municipality of Hamilton-Wentworth (formerly in the County of Wentworth), in the Province of Ontario, being composed of lots 23, 24, 25 and 26 fronting on Delaware Avenue (formerly known as Ida Street) registered as Plan Number 225.

Bill Pr10

An Act respecting the Oshawa Public Utilities Commission

Mr. Breaugh

1st Reading May 20th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr10

1987

**An Act respecting the
Oshawa Public Utilities Commission**

Whereas the Oshawa Public Utilities Commission, herein called the Commission, hereby applies for special legislation to enable it to pay the whole or part of the cost of the Ontario Health Insurance Plan and the whole or part of the cost of a supplementary health insurance plan, as set out in section 2, for retired employees and their spouses and children and for the spouses and children of deceased employees; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“employee” means an employee as defined in paragraph 46 of section 208 of the *Municipal Act*;

R.S.O. 1980,
c. 302

“retired employee” means a retired employee as defined in subclause (a) (ii) of paragraph 48 of section 208 of the *Municipal Act*.

2. The Commission may pass by-laws for paying the whole or part of the cost of the Ontario Health Insurance Plan and the whole or part of the cost of a supplementary health insurance plan, which may include any or all of the following benefits,

By-laws
respecting
health
insurance

- (a) semi-private hospital coverage;
- (b) drug coverage; and
- (c) hospital, medical, surgical, nursing, vision and dental service coverage,

for retired employees and their spouses and children and for the spouses and children of deceased employees.

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 *Oshawa Public Utilities Commission Act, 1987*.

Bill Pr11

An Act to revive The Quetico Foundation

Mr. Bernier

1st Reading May 5th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr11

1987

An Act to revive The Quetico Foundation

Whereas Frank W. Woods and L.C. Bonnycastle hereby represent that The Quetico Foundation, herein called the Corporation, was incorporated by letters patent dated the 5th day of October, 1954; that the Minister of Consumer and Commercial Relations by order dated the 17th day of July, 1979 and made under the authority of subsection 347 (9) of *The Corporations Act*, being chapter 89 of the Revised Statutes of Ontario, 1970, cancelled the letters patent of the Corporation for default in complying with section 5 of *The Corporations Information Act, 1976*, being chapter 66, and declared the Corporation to be dissolved on the 17th day of July, 1979; that the applicants were members of the Corporation at the time of its dissolution; that the default occurred by reason of inadvertence; that the notice of default, although sent to the registered office of the Corporation, was not received by the Corporation and the applicants were unaware of the dissolution of the Corporation until more than two years after the date thereof; that the function of the Corporation was to advise on the sound development, in the public interest, of the undeveloped portions of the lakeland and wilderness area sometimes known as the Quetico Area in Northwestern Ontario, and of other undeveloped lakeland and wilderness areas and other areas suitable for use as public parks or reserve within the Province of Ontario; that the Corporation at the time of its dissolution was performing that function and since that time that function has continued to be carried on in the name of the Corporation; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Preamble

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

1. The Quetico Foundation is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a corporation without share capital, including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities

The
Quetico
Foundation
revived

and debts as of the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Commence-
ment

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

Short title

3. The short title of this Act is the *Quetico Foundation Act, 1987*.

Bill Pr11

*(Chapter Pr12
Statutes of Ontario, 1987)*

An Act to revive The Quetico Foundation

Mr. Bernier

<i>1st Reading</i>	May 5th, 1987
<i>2nd Reading</i>	June 8th, 1987
<i>3rd Reading</i>	June 8th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr11

1987

An Act to revive The Quetico Foundation

Whereas Frank W. Woods and L.C. Bonnycastle hereby represent that The Quetico Foundation, herein called the Corporation, was incorporated by letters patent dated the 5th day of October, 1954; that the Minister of Consumer and Commercial Relations by order dated the 17th day of July, 1979 and made under the authority of subsection 347 (9) of *The Corporations Act*, being chapter 89 of the Revised Statutes of Ontario, 1970, cancelled the letters patent of the Corporation for default in complying with section 5 of *The Corporations Information Act*, 1976, being chapter 66, and declared the Corporation to be dissolved on the 17th day of July, 1979; that the applicants were members of the Corporation at the time of its dissolution; that the default occurred by reason of inadvertence; that the notice of default, although sent to the registered office of the Corporation, was not received by the Corporation and the applicants were unaware of the dissolution of the Corporation until more than two years after the date thereof; that the function of the Corporation was to advise on the sound development, in the public interest, of the undeveloped portions of the lakeland and wilderness area sometimes known as the Quetico Area in Northwestern Ontario, and of other undeveloped lakeland and wilderness areas and other areas suitable for use as public parks or reserve within the Province of Ontario; that the Corporation at the time of its dissolution was performing that function and since that time that function has continued to be carried on in the name of the Corporation; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Preamble

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

1. The Quetico Foundation is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a corporation without share capital, including all its property, rights, privileges and franchises and subject to all its liabilities, contracts, disabilities

The
Quetico
Foundation
revived

and debts as of the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Commence-
ment

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

Short title

3. The short title of this Act is the *Quetico Foundation Act, 1987*.

Bill Pr12

An Act to revive the Centre for Educative Growth

Mr. Morin

1st Reading June 24th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr12

1987

An Act to revive the Centre for Educative Growth

Whereas John Legg and J. Fred Gillespie hereby represent Preamble
 that the Centre for Educative Growth, hereinafter called the Corporation, was incorporated by letters patent dated the 12th day of November, 1973; that the Minister of Consumer and Commercial Relations by order dated the 8th day of September, 1982, and made under the authority of subsection 317 (9) of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, cancelled the certificate of incorporation of the Corporation for failure to comply with the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, and declared the Corporation to be dissolved on the 8th day of September, 1982; that the applicants were directors in good standing of the Corporation at the time of its dissolution; that notice of default in filing annual returns, although sent to each of the applicants as directors, was not received by any of them and none of them was aware of the dissolution of the Corporation until more than two years after the date thereof; that the Corporation at the time of its dissolution was carrying on its activities and has continued to carry on its activities in the name of the Corporation since the time of its dissolution; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

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

1. The Centre for Educative Growth is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position, including all its property, rights, privileges and franchises, and subject to all its liabilities, contracts, disabilities and debts as of the date of its dissolution, in the same manner as if it had not been dissolved. Corporation revived

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

3. The short title of this Act is the *Centre for Educative Growth Act, 1987*. Short title



Bill Pr14

An Act respecting York Fire & Casualty Insurance Company

Mr. Cousens

1st Reading June 2nd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr14

1987

**An Act respecting
York Fire & Casualty Insurance Company**

Whereas York Fire & Casualty Insurance Company, herein called the Company, hereby represents that York Fire & Casualty Company was incorporated under the laws of the Province of Ontario by letters patent dated the 30th day of September, 1955; that the said letters patent were amended by supplementary letters patent dated the 30th day of November, 1955; that the Company received letters patent approving its amalgamation with Transportation Fire & Casualty Company on the 30th day of December, 1977 under the name of York Fire & Casualty Insurance Company; that the letters patent of amalgamation were amended by supplementary letters patent dated the 29th day of November, 1983, the 25th day of October, 1985 and the 19th day of February, 1986; that the Company desires to be continued under the jurisdiction of the Parliament of Canada; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1. Subject to authorization by special resolution under the *Corporations Act*, the Company may apply to the Minister of Consumer and Corporate Affairs of Canada for letters patent continuing the Company as if it had been incorporated under an Act of the Parliament of Canada and providing *inter alia* that all rights and interests of the shareholders, policyholders and creditors of the Company in, to or against the property, rights and assets of the Company and all liens upon the property, rights and assets of the Company are unimpaired by such continuation.

Application
to Minister
of Consumer
and
Corporate
Affairs
authorized
R.S.O. 1980,
c. 95

2. Upon the issue of the letters patent referred to in section 1, the Company shall file with the Minister of Consumer and Commercial Relations a notice of the issue of the letters patent together with a copy of the letters patent certified by

Items to be
filed

R.S.O. 1980,
c. 95

the Department of Consumer and Corporate Affairs and, on and after the date of the filing of such notice, the *Corporations Act* shall cease to apply to the Company.

Minister's
certificate

3. The Minister of Consumer and Commercial Relations may, on receipt of the notice and certified copy of the letters patent referred to in section 2, issue a certificate to the Company confirming the date of such filing.

Commence-
ment

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

Short title

5. The short title of this Act is the *York Fire & Casualty Insurance Company Act, 1987*.

Bill Pr17

An Act respecting the City of Toronto

Mr. Offer

1st Reading June 2nd, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill would permit the council to require the filing of information respecting the identity, use and quantity of designated hazardous substances in the workplace. A Right-to-Know Arbitration Tribunal would be set up to determine a claim by an employer that the information should be kept confidential. The Act also provides for the disclosure of information, as filed, on any designated hazardous substance in the workplace which is not found to be confidential.

Bill Pr17

1987

An Act respecting the City of Toronto

Whereas The Corporation of the City of Toronto, herein Preamble
called the Corporation, hereby applies for special legislation
in respect of the matters hereinafter set forth; and whereas it
is expedient to grant the application;

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

1. In this Act,

Definitions

“Board of Health” means the Board of Health for the City of
Toronto Health Unit;

“confidentiality claim” means a claim submitted by an
employer to the Right-to-Know Arbitration Tribunal for
confidentiality in respect of the identity of a designated
hazardous substance in the workplace;

“confidentiality registration number” means a number issued
by the Right-to-Know Arbitration Tribunal to identify the
designated hazardous substance in respect of which a confi-
dentiality claim is approved;

“defined business activity” means a business activity which
falls within one of the classes of business activities defined
by a by-law passed by the council of the Corporation under
section 2;

“designated hazardous substance” means a substance desig-
nated by a by-law passed by the council of the Corporation
under section 2 as being hazardous to the health or safety
of a person who may be exposed thereto and includes a
substance so designated which is an ingredient or compo-
nent of a product, material or thing not designated a hazar-
dous substance by the by-law;

“employer” means a person who employs one or more work-
ers or contracts for the services of one or more workers and

includes a contractor or subcontractor who performs work for or supplies services to a person but does not include a person who employs a domestic worker or a casual labourer at the place of residence of the person;

“Fire Chief” means the person appointed Fire Chief by the council of the Corporation;

“hazardous consumer goods” means goods which are designated hazardous substances sold to a person in packaging or containers for use for personal, family or household purposes and not for resale;

“inspector” means a public health inspector of the Board of Health for the City of Toronto Health Unit;

“Medical Officer of Health” means the Medical Officer of Health of the Board of Health for the City of Toronto Health Unit;

“tribunal” means the Right-to-Know Arbitration Tribunal established by council under section 3;

“use”, in relation to a designated hazardous substance, means the manufacture, storage or disposal of the substance or the treating, processing or handling of the substance in the workplace, whether as an intermediate or final product of a process;

“workplace” means any land, building or structure at, upon, in or near which a worker works.

By-laws
respecting
disclosure of
hazardous
substances in
the
workplace

2. The council may pass by-laws,

- (a) for defining the class or classes of business activities in the City of Toronto to which by-laws passed under this Act shall apply;
- (b) for prescribing the designated hazardous substances to which by-laws passed under this Act shall apply;
- (c) for requiring every employer who carries on a defined business activity to disclose annually to the Medical Officer of Health, within the time specified in the by-law, information respecting the identity, use and quantity of,
 - (i) each designated hazardous substance present in the workplace on the date and during the period specified in the by-law, and

- (ii) each additional designated hazardous substance brought to the workplace;
- (d) for prescribing the information to be disclosed by an employer who carries on a defined business activity respecting the identity, use and quantity of each designated hazardous substance present in or brought to the workplace;
- (e) for prescribing the information to be disclosed by an employer who carries on a defined business activity and who has submitted a confidentiality claim to or has been issued a confidentiality registration number by the tribunal;
- (f) for prescribing exemptions from by-laws passed under this section for small quantities of designated hazardous substances and hazardous consumer goods in the workplace;
- (g) for requiring every employer of a defined business activity to file with the Medical Officer of Health, within the time specified in the by-law, notice of,
 - (i) any change of location of the business activity, giving the new address including the street and number,
 - (ii) any change which substantially alters the nature of the business activity, or
 - (iii) the ceasing of the business activity;
- (h) for requiring every employer who carries on a defined business activity to advise the Medical Officer of Health, within the time specified in the by-law, of,
 - (i) failure to receive notice from the Medical Officer of Health requesting information respecting designated hazardous substances in the workplace, and
 - (ii) the absence of any designated hazardous substances in the workplace;
- (i) for appointing inspectors; and
- (j) providing that an employer found guilty of the offence of failing to disclose information specified in

a by-law passed under this section is liable to a fine of not more than \$100 per day for every day upon which the offence continued after the expiry of the time prescribed for disclosing such information.

Right-to-Know
Arbitration
Tribunal
Composition
of tribunal

3.—(1) The council may by by-law establish a tribunal to be known as the “Right-to-Know Arbitration Tribunal”.

(2) The tribunal shall be composed of the Medical Officer of Health who shall act as chairman, and so many members, equal in number, as the council may determine, representative of and nominated by,

- (a) the Board of Health;
- (b) employers in the City of Toronto;
- (c) employees resident in the City of Toronto; and
- (d) members of the general public resident in the City of Toronto.

Appointments

(3) The members of the tribunal shall be appointed by the council and shall be appointed for a term expiring with the life of the council that appointed them and until their successors are appointed, and any such member is eligible for reappointment as the council may determine.

Alternate
chairman

(4) The Medical Officer of Health may designate a person to act as alternate chairman in the case of his or her absence or inability to act at a meeting of the tribunal.

Remuneration

(5) The members of the tribunal shall be paid such remuneration as the council may determine.

Vacancies

(6) Where a person ceases to be a member of the tribunal before the expiration of his or her term, the council may appoint another person for the unexpired portion of the term.

Secretary

(7) There shall be a secretary of the tribunal who shall be appointed by the council.

Acting
secretary

(8) Where the office of the secretary is vacant or where the secretary is absent or unable to act, the council may appoint an acting secretary who shall act in the place of the secretary.

Duties of
secretary

(9) It is the duty of the secretary,

- (a) to keep a record and preserve secrecy in respect of all confidentiality claims submitted to the tribunal;

- (b) to have the custody and care of all records and documents pertaining to the business or proceedings before the tribunal;
- (c) to keep proper books of record in which the secretary shall cause to be entered every decision made and every confidentiality registration number issued by the tribunal and the entry constitutes the original record of every decision made and every confidentiality registration number issued; and
- (d) to carry out such other functions and duties as may be prescribed by this Act or assigned by the council.

(10) The chairman or alternate chairman, each member of the tribunal, the secretary or acting secretary and each person assisting the secretary in the administration of the tribunal shall, before entering upon his or her duties, take and subscribe before the clerk of the municipality and file in the clerk's office a secrecy affirmation or oath in the following form:

Oath of
secrecy

I do swear (or solemnly affirm) that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of chairman (or other position as may be appropriate) of the Right-to-Know Arbitration Tribunal and I will not, except in the discharge of my duties, disclose to any person any of the evidence or proceedings or any other matter brought before the tribunal. So help me God. (Omit this phrase in an affirmation).

4.—(1) The chairman or alternate chairman, one member representative of the Board of Health, one member representative of employers, one member representative of employees and one member representative of the general public constitute a quorum.

Quorum

(2) The decision of the majority of the members of the tribunal present and constituting a quorum is the decision of the tribunal, but the chairman or alternate chairman may vote only in the event of a tie.

Decisions of
tribunal

5. The tribunal shall determine its own practice and procedure but shall give full opportunity to an employer who submits a confidentiality claim to the tribunal to present evidence and to make submissions.

Practice and
procedure

Hearings to
be private

6. The hearings of the tribunal shall be held in private.

Confiden-
tiality claim
by employer

7.—(1) An employer may, within fifteen working days of receiving a request from the Medical Officer of Health for information respecting designated hazardous substances in the workplace, submit a confidentiality claim to the tribunal in respect of the identity of a designated hazardous substance, based on economic hardship to the employer resulting from disclosure thereof to the public.

Disclosure by
employee

(2) An employer who makes a confidentiality claim under subsection (1) shall not refuse to disclose information to the Medical Officer of Health within the time and in the manner specified in a by-law passed by the council under section 2, other than the identity of the designated hazardous substance to which the confidentiality claim relates.

Contents of
confiden-
tiality claim

(3) A confidentiality claim shall,

- (a) disclose the identity of the designated hazardous substance in respect of which the claim is made;
- (b) set out the grounds relied on by the employer in support of the claim; and
- (c) include any document or information relevant to the determination of the claim by the tribunal.

Service

(4) An employer making a confidentiality claim shall,

- (a) ensure that the claim is clearly marked confidential and addressed to the secretary of the tribunal; and
- (b) serve the claim on the secretary of the tribunal personally or by registered mail.

Time for
hearing

8. The secretary of the tribunal, upon receipt of a confidentiality claim, shall set a date and time for a hearing by the tribunal and shall notify the employer thereof no less than fifteen days prior to the date set for the hearing.

Duties of
tribunal

9.—(1) The tribunal shall review and determine all confidentiality claims submitted to it under this Act and in making its decision shall consider,

- (a) the extent to which the public and workers employed by the employer are aware of the identity of the designated hazardous substance in respect of which the claim is made;

- (b) the extent to which such designated hazardous substance is used by other employers;
- (c) whether the employer making the claim will suffer economic hardship as a result of disclosure to the public of the identity of the designated hazardous substance; and
- (d) the measures taken by the employer prior to making the confidentiality claim to preserve secrecy in respect of the identity of such designated hazardous substance.

(2) Subject to sections 15 and 16, where the tribunal approves a confidentiality claim in respect of a designated hazardous substance, it shall issue to the employer making the claim a confidentiality registration number by which the identity of the designated hazardous substance shall be disclosed under this Act or under a by-law passed under this Act.

Confidentiality registration number

(3) Where, upon dismissing a confidentiality claim, the tribunal finds that the claim was trivial, frivolous or made in bad faith, the tribunal may order the employer who made the claim to pay the costs of the proceedings before the tribunal.

Frivolous claim

10.—(1) The tribunal shall review each confidentiality claim approved by it three years following the date of its decision or so soon thereafter as is practicable.

Review

(2) The secretary of the tribunal shall notify the employer who submitted a confidentiality claim approved by the tribunal of the date and time set by the tribunal for review of the confidentiality claim no less than fifteen days prior to the date set for the review.

Notice of review

(3) Subsections 7 (1), 7 (3), 7 (4), 9 (1) and 9 (2) apply with necessary modifications to the proceedings before the tribunal on a review under subsection (1).

Procedure on review

(4) Documents and things put in evidence by an employer at a hearing before the tribunal shall, upon the request of the employer, be released to the employer by the tribunal within a reasonable time after the confidentiality claim made by the employer has been determined.

Release of documents

11.—(1) Within fifteen days of receiving notice of the tribunal's dismissal of a confidentiality claim under subsection 9 (1) or 10 (1), the employer who made the confidentiality claim may apply to the District Court for a determination as to whether the confidentiality claim ought to be approved.

Hearings by court

Powers of
judge

(2) Upon receiving an application for a determination under subsection (1), the judge shall appoint a time for and hold a hearing and may rescind or affirm the decision of the tribunal.

Extension of
time

(3) A judge may extend the time for making an application for a determination under subsection (1) either before or after the expiration of the fifteen day period mentioned therein if the judge is satisfied that there are *prima facie* grounds for relief and that there are reasonable grounds for the extension.

Tribunal
entitled to be
heard

(4) On a hearing of an application for a determination by a judge, the tribunal may be represented.

Hearings in
private

(5) The hearing of an application for a determination by a judge shall be held in private.

Tribunal to
issue

(6) Where a confidentiality claim is approved by a judge under subsection (2), the tribunal shall issue a confidentiality registration number to the employer to identify the designated hazardous substance in respect of which the confidentiality claim is approved.

Right of
access

12. Every person has a right of access to information respecting designated hazardous substances in the workplace disclosed to the Medical Officer of Health by an employer of a defined business activity or otherwise available to or in the possession of the Medical Officer of Health unless the information is exempted under section 14.

Access
procedure

13.—(1) A person seeking information under section 12 shall make a request therefor to the Medical Officer of Health during regular working hours.

Identity
confidential

(2) The Medical Officer of Health shall not publish, disclose or communicate to any person the identity of a person seeking information under section 12.

Disclosure of
information

(3) The Medical Officer of Health shall,

- (a) disclose to a person seeking information under section 12 the information available to or in the possession of the Medical Officer of Health; and
- (b) make all necessary inquiries and forward to the organization which the Medical Officer of Health determines is appropriate, a request for information by a person under section 12 not available to or in the possession of the Medical Officer of Health but available to or in the possession of the organization,

unless the information is exempted under section 14.

(4) The Medical Officer of Health may require the person seeking information under section 12 to pay the costs of copying the information. Costs of information

14. The Medical Officer of Health shall not disclose to a person seeking information under section 12, Exemptions

- (a) the identity of a designated hazardous substance for which a confidentiality claim has been filed by an employer or approved by the tribunal;
- (b) any record of the proceedings before the tribunal or other documents or evidence pertaining to or filed in a confidentiality claim; or
- (c) any report or the results of any examination, test or inquiry made by an inspector for the purpose of enforcing a by-law passed by the council under section 2.

15. The Fire Chief has a right of access to information respecting the identity of a designated hazardous substance in respect of which a confidentiality registration number has been issued but shall not publish, disclose or communicate such information to any person except as may be necessary to protect life or property endangered by a fire. Right of Fire Chief

16.—(1) A physician licensed to practice medicine in Ontario has a right of access to the identity of a designated hazardous substance in respect of which a confidentiality registration number has been issued provided the physician delivers to the secretary of the tribunal a statement signed by him or her in the following form: Right of physician

In my opinion the patient (giving the name of the patient) under my care suffers from health problems (specifying the nature thereof) which may be related to his or her exposure to the unidentified designated hazardous substance in the workplace of the employer (giving the name of the employer and the location of the workplace) to whom a confidentiality registration number (specifying such number) has been issued by the Right-to-Know Arbitration Tribunal.

(2) Upon receiving a statement signed by a physician under subsection (1), the secretary of the tribunal shall disclose to Release of confidential information to physician

the physician the identity of the designated hazardous substance described in the statement.

Duty of
physician

(3) A physician who receives information from the secretary of the tribunal under subsection (2) shall not publish, disclose or communicate the information to any person except as may be necessary in the treatment of the patient under his or her care named in a statement signed by the physician under subsection (1).

Disclosure by
Medical
Officer of
Health

(4) Notwithstanding subsection (1), in a case of medical emergency, the Medical Officer of Health may disclose to a physician treating the person, at the request of the physician, information respecting the identity of a designated hazardous substance in respect of which a confidentiality registration number has been issued.

Idem

(5) Subsection (3) applies with necessary modifications to a physician who receives information from the Medical Officer of Health under subsection (4).

Inspection of
workplace

17.—(1) For the enforcement of any by-law passed by the council under this Act and for the purpose of investigating a complaint that a health hazard exists related to the presence of a hazardous substance in a workplace, an inspector may,

- (a) at all reasonable hours, enter any workplace or any building or structure in which a workplace is situate;
- (b) make examinations, investigations and inquiries; and
- (c) make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry.

Dwellings

(2) No inspector may enter a workplace that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.

Obstruction
prohibited

(3) No person shall hinder or obstruct an inspector lawfully carrying out the enforcement of any by-law passed by the council under section 2.

Application
for warrant

(4) If any person,

- (a) denies entry or access to an inspector, through or over a workplace;

- (b) instructs or directs an inspector to leave a workplace;
- (c) obstructs an inspector from carrying out the enforcement of a by-law passed by the council under section 2;
- (d) refuses to comply with a request for the production of any thing, the production of which is requested for the purpose of an examination, investigation or inquiry,

an inspector may apply to a justice of the peace for a warrant.

(5) If a justice of the peace is satisfied on evidence under oath, Issue of
warrant

- (a) that there is reasonable and probable ground for believing that it is necessary,
 - (i) to enter and have access to any workplace,
 - (ii) to make examinations, investigations and inquiries for the purpose of the enforcement of any by-law passed by the council under section 2,
 - (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry; and
- (b) that an inspector,
 - (i) has been denied entry to the workplace,
 - (ii) has been instructed or directed to leave the workplace,
 - (iii) has been obstructed, or
 - (iv) has been refused production of any thing related to an examination, investigation or inquiry,

the justice of the peace may issue a warrant authorizing an inspector to act as mentioned in clause (a) in respect of the workplace specified in the warrant, by force if necessary, together with such police officers as may be called upon to assist the inspector.

- Execution of warrant (6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.
- Expiry of warrant (7) A warrant issued under this section shall state the date upon which it expires, which shall be a date not later than fifteen days after the warrant is issued.
- Ex parte* application (8) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or occupier of the workplace.
- No action **18.** No action or other proceeding for damages, prohibition or mandamus lies or shall be instituted against the Medical Officer of Health, the tribunal or the members thereof, the secretary to the tribunal, the assistant to the secretary or an inspector for an act done in good faith in the execution or intended execution of his or her duty or power under this Act or for any alleged neglect or default in the execution in good faith of his or her duty or power under this Act.
- Commencement **19.** This Act comes into force on the day it receives Royal Assent.
- Short title **20.** The short title of this Act is the *City of Toronto Act, 1987*.





Bill Pr18

An Act respecting Port Stanley Terminal Rail Incorporated

Mr. Reycraft

1st Reading June 8th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr18

1987

**An Act respecting
Port Stanley Terminal Rail Incorporated**

Whereas Port Stanley Terminal Rail Incorporated, herein called the Corporation, hereby represents that it was incorporated by certificate of incorporation dated the 17th day of November, 1982; that the Corporation, with the consent of the Ontario Municipal Board, has been operating an excursion train between Port Stanley and Port Union, both in the Province of Ontario; that the Corporation made application to the Ontario Municipal Board to extend its operations to St. Thomas in the Province of Ontario and during the proceedings there was doubt cast as to whether the Corporation could operate a railway without being incorporated by a special Act of the Legislature; and whereas the Corporation hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. Notwithstanding that Port Stanley Terminal Rail Incorporated was incorporated under the *Business Corporations Act*, it shall, for the purposes of *The Railways Act*, be deemed to be and to always have been incorporated by a special Act.

Deeming provision
R.S.O. 1980,
c. 66
R.S.O. 1950,
c. 331

2. Notwithstanding subsection 2 (2) of the *Business Corporations Act, 1982*, that Act applies to the Corporation in respect of its corporate structure and corporate procedures as if it were not operating a railway.

1982, c. 4
applies to
corporate
structure,
procedures

3. *The Railways Act* applies to the Corporation in respect of its operation of a railway.

R.S.O. 1950,
c. 331
applies to
operation of
railway

4. The Ontario Municipal Board shall not approve an application by the Corporation under section 174 of *The Railways Act* unless the Ministry of Transportation and Communications certifies to the Board that the equipment, track and

Conditions
for approval

operating procedures of the railway permit the railway to be operated in a safe manner.

Annual
safety
inspection
and
certificate

5. The Corporation shall annually provide to the Ontario Municipal Board a certificate from a qualified person stating that the facilities and operating procedures of the railway are in accordance with generally accepted railways practices and are sufficient to protect the safety of the public.

Costs

6. The cost of the inspection and certification required under section 4 or 5 shall be borne by the Corporation.

Powers of
O.M.B.
R.S.O. 1950,
c. 331

7. Nothing in this Act shall be construed to derogate from the powers of the Ontario Municipal Board under *The Railways Act*.

Commence-
ment

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

Short title

9. The short title of this Act is the *Port Stanley Terminal Rail Incorporated Act, 1987*.

Bill Pr18

An Act respecting Port Stanley Terminal Rail Incorporated

Mr. Reycraft

1st Reading June 8th, 1987

2nd Reading

3rd Reading

Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr18

1987

**An Act respecting
Port Stanley Terminal Rail Incorporated**

Whereas Port Stanley Terminal Rail Incorporated, herein called the Corporation, hereby represents that it was incorporated by certificate of incorporation dated the 17th day of November, 1982; that the Corporation, with the consent of the Ontario Municipal Board, has been operating an excursion train between Port Stanley and Union, both in the Province of Ontario; that the Corporation made application to the Ontario Municipal Board to extend its operations to St. Thomas in the Province of Ontario and during the proceedings there was doubt cast as to whether the Corporation could operate a railway without being incorporated by a special Act of the Legislature; and whereas the Corporation hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. Notwithstanding that Port Stanley Terminal Rail Incorporated was incorporated under the *Business Corporations Act*, it shall, for the purposes of *The Railways Act*, be deemed to be and to always have been incorporated by a special Act.

Deeming provision
R.S.O. 1980,
c. 66
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1982, c. 4
applies to
corporate
structure,
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R.S.O. 1950,
c. 331
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6. The cost of the inspection and certification required under section 4 or 5 shall be borne by the Corporation.

Powers of
O.M.B.
R.S.O. 1950,
c. 331

7. Nothing in this Act shall be construed to derogate from the powers of the Ontario Municipal Board under *The Railways Act*.

Commence-
ment

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

Short title

9. The short title of this Act is the *Port Stanley Terminal Rail Incorporated Act, 1987*.

Bill Pr18

*(Chapter Pr13
Statutes of Ontario, 1987)*

An Act respecting Port Stanley Terminal Rail Incorporated

Mr. Reycraft

<i>1st Reading</i>	June 8th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr18

1987

**An Act respecting
Port Stanley Terminal Rail Incorporated**

Whereas Port Stanley Terminal Rail Incorporated, herein called the Corporation, hereby represents that it was incorporated by certificate of incorporation dated the 17th day of November, 1982; that the Corporation, with the consent of the Ontario Municipal Board, has been operating an excursion train between Port Stanley and Union, both in the Province of Ontario; that the Corporation made application to the Ontario Municipal Board to extend its operations to St. Thomas in the Province of Ontario and during the proceedings there was doubt cast as to whether the Corporation could operate a railway without being incorporated by a special Act of the Legislature; and whereas the Corporation hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. Notwithstanding that Port Stanley Terminal Rail Incorporated was incorporated under the *Business Corporations Act*, it shall, for the purposes of *The Railways Act*, be deemed to be and to always have been incorporated by a special Act.

Deeming provision
R.S.O. 1980,
c. 66
R.S.O. 1950,
c. 331

2. Notwithstanding subsection 2 (2) of the *Business Corporations Act, 1982*, that Act applies to the Corporation in respect of its corporate structure and corporate procedures as if it were not operating a railway.

1982, c. 4
applies to
corporate
structure,
procedures

3. *The Railways Act* applies to the Corporation in respect of its operation of a railway.

R.S.O. 1950,
c. 331
applies to
operation of
railway

4. The Ontario Municipal Board shall not approve an application by the Corporation under section 174 of *The Railways Act* unless the Ministry of Transportation and Communications certifies to the Board that the equipment, track and

Conditions
for approval

operating procedures of the railway permit the railway to be operated in a safe manner.

Annual
safety
inspection
and
certificate

5. The Corporation shall annually provide to the Ontario Municipal Board a certificate from a qualified person stating that the facilities and operating procedures of the railway are in accordance with generally accepted railways practices and are sufficient to protect the safety of the public.

Costs

6. The cost of the inspection and certification required under section 4 or 5 shall be borne by the Corporation.

Powers of
O.M.B.
R.S.O. 1950,
c. 331

7. Nothing in this Act shall be construed to derogate from the powers of the Ontario Municipal Board under *The Railways Act*.

Commence-
ment

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

Short title

9. The short title of this Act is the *Port Stanley Terminal Rail Incorporated Act, 1987*.

Bill Pr19

An Act respecting the Township of Chapleau

Mr. Laughren

1st Reading June 16th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr19

1987

An Act respecting the Township of Chapleau

Whereas The Corporation of the Township of Chapleau, herein called the Corporation, hereby represents that it is desirable that it be given the power to acquire real property, or an interest therein, outside the Township of Chapleau for municipal purposes; and whereas it is expedient to grant the application;

Preamble

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

1. The Corporation may acquire by gift or purchase the real property, or an interest therein, located in the Township of Panet in the District of Sudbury and more particularly described in the Schedule, for municipal purposes, on such terms and conditions as the council of the Corporation considers appropriate.

Power to acquire interest in land outside township boundary

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

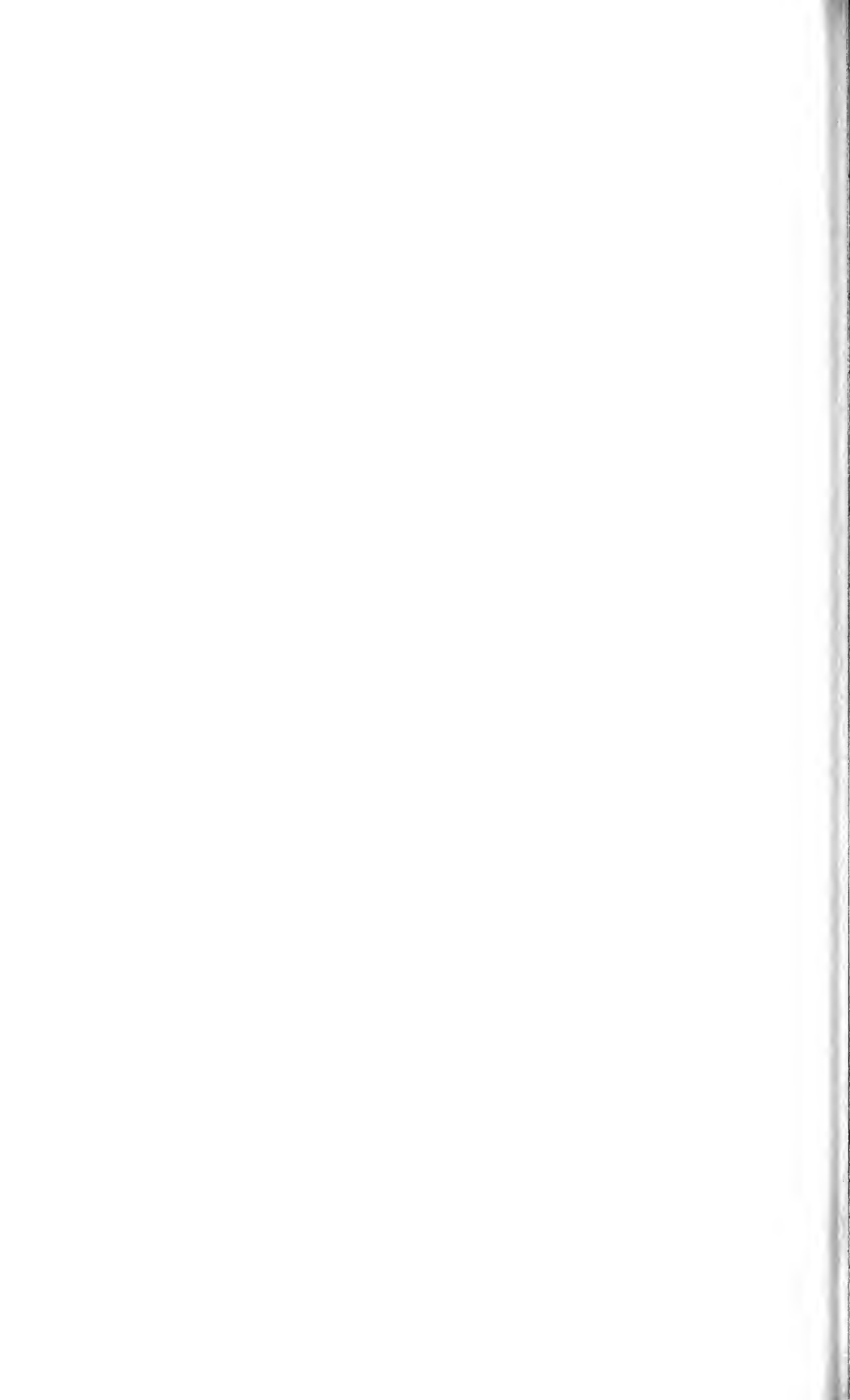
Commencement

3. The short title of this Act is the *Township of Chapleau Act, 1987*.

Short title

SCHEDULE

All that parcel or tract of land in the Township of Panet, in the Territorial District of Sudbury and Province of Ontario, containing by admeasurement 1.920 hectares, be the same more or less, being composed of that part of Lot 6, Concession I, in the said township, designated as Part 1 on a plan and field notes of Location RY 235 deposited in the Land Registry Office at Sudbury as Plan 53R-11206.



Bill Pr19

*(Chapter Pr14
Statutes of Ontario, 1987)*

An Act respecting the Township of Chapleau

Mr. Laughren

<i>1st Reading</i>	June 16th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr19

1987

An Act respecting the Township of Chapleau

Whereas The Corporation of the Township of Chapleau, herein called the Corporation, hereby represents that it is desirable that it be given the power to acquire real property, or an interest therein, outside the Township of Chapleau for municipal purposes; and whereas it is expedient to grant the application;

Preamble

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

1. The Corporation may acquire by gift or purchase the real property, or an interest therein, located in the Township of Panet in the District of Sudbury and more particularly described in the Schedule, for municipal purposes, on such terms and conditions as the council of the Corporation considers appropriate.

Power to acquire interest in land outside township boundary

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

Commencement

3. The short title of this Act is the *Township of Chapleau Act, 1987*.

Short title

SCHEDULE

All that parcel or tract of land in the Township of Panet, in the Territorial District of Sudbury and Province of Ontario, containing by admeasurement 1.920 hectares, be the same more or less, being composed of that part of Lot 6, Concession I, in the said township, designated as Part 1 on a plan and field notes of Location RY 235 deposited in the Land Registry Office at Sudbury as Plan 53R-11206.



Bill Pr20

An Act respecting the Town of Lindsay

Mr. Miller
(Haldimand-Norfolk)

1st Reading November 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr20

1987

An Act respecting the Town of Lindsay

Whereas The Corporation of the Town of Lindsay, herein called the Corporation, hereby represents that by deed dated the 25th day of September, 1925 and registered as instrument number 29355 in the land registry office for the Registry Division of the County of Victoria, William J. Carlisle and Alfred Johnson as trustees conveyed to the Corporation the lands described in the Schedule; that it was a term of the deed that the lands conveyed be held and maintained by the Corporation as a public park and horticultural garden; that the Corporation desires to use, lease or convey the said lands for athletic purposes and there is some doubt as to whether the Corporation may do so under the terms of the deed; and whereas the Corporation applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“Park” means Kawartha Park in the Town of Lindsay as described in the Schedule hereto;

“trust deed” means the instrument registered as instrument number 29355 in the land registry office for the Registry Division of the County of Victoria.

2. Notwithstanding subsection 13 (5) of the *Public Parks Act* or any term or condition set out in the trust deed, the Park may be used for general public park purposes including athletic activities and sports.

Use of park
R.S.O. 1980,
c. 417

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

Commencement

4. The short title of this Act is the *Town of Lindsay Act, 1987*.

Short title

SCHEDULE

The land and premises in the Town of Lindsay in the County of Victoria composed of,

- (a) the whole of Park Lots Numbers 9 and 10 west of Albert Street in the said Town of Lindsay, except the following parts:

Firstly: that portion of land conveyed to William Wendt by Edward Murphy by instrument number 1806, dated the 3rd day of April, 1873 and registered in the Registry Office for the County of Victoria on the 22nd day of April, 1873.

Secondly: that portion of land conveyed by Edward Murphy to James Frampton by instrument number 1805, dated the 3rd day of April, 1873 and registered as aforesaid on the 22nd day of April, 1873.

Thirdly: that portion of land conveyed by Edward Murphy to Thomas Wickham by instrument number 1807, dated the 3rd day of April, 1873 and registered as aforesaid on the 22nd day of April, 1873.

Fourthly: that portion of land conveyed by Terence Murphy and Patrick Murphy executors of Edward Murphy to Ann Leddy by instrument number 17453, dated the 31st day of January, 1913 and registered as aforesaid on the 5th day of March, 1913.

Fifthly: that portion of land conveyed by Terence Murphy to Annie Smitheram by instrument number 19338, dated the 29th day of December, 1916 and registered as aforesaid on the 28th day of February, 1917.

Sixthly: that portion of land conveyed by William J. Carlisle and Alfred Johnson to the Board of Education for the Town of Lindsay by instrument number 23462, dated the 7th day of April, 1925 and registered as aforesaid on the 6th day of August, 1925 in Book 63 for the Town of Lindsay; and

- (b) part of Park Lot 10 west of Albert Street in the said Town of Lindsay described as follows:

Commencing at a point on the northerly limit of the said Lot 10 distant 283 feet 6 inches measured westerly along the said northern limit from the northeast angle of the said Lot; thence westerly along the northerly limit of the said Lot 140 feet, more or less, to a point equidistant from the easterly and westerly limits of the said Lot; thence southerly and parallel with the easterly limit of the said Lot 78 links, more or less, one-fifth of the whole breadth of said Park Lot; thence easterly and parallel with the northerly boundary of the said Lot 140 feet, more or less, to a point distant 283 feet 6 inches from the easterly limit of the said Lot; thence northerly and parallel to the easterly limit of the said Lot 78 links, more or less, to the point of commencement.

Bill Pr20

An Act respecting the Town of Lindsay

Mr. Miller
(Haldimand-Norfolk)

1st Reading November 18th, 1986
2nd Reading
3rd Reading
Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr20

1987

An Act respecting the Town of Lindsay

Whereas The Corporation of the Town of Lindsay, herein called the Corporation, hereby represents that by deed dated the 25th day of September, 1925 and registered as instrument number 29355 in the land registry office for the Registry Division of the County of Victoria, William J. Carlisle and Alfred Johnson as trustees conveyed to the Corporation the lands described in the Schedule; that it was a term of the deed that the lands conveyed be held and maintained by the Corporation as a public park and horticultural garden; that the Corporation desires to use or lease the said lands for athletic purposes and there is some doubt as to whether the Corporation may do so under the terms of the deed; and whereas the Corporation applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“Park” means Kawartha Park in the Town of Lindsay as described in the Schedule hereto;

“trust deed” means the instrument registered as instrument number 29355 in the land registry office for the Registry Division of the County of Victoria.

2. Notwithstanding subsection 13 (5) of the *Public Parks Act* or any term or condition set out in the trust deed, the Park may be used for general public park purposes including athletic activities and sports.

Use of park
R.S.O. 1980,
c. 417

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

Commence-
ment

4. The short title of this Act is the *Town of Lindsay Act, 1987*.

Short title

SCHEDULE

The land and premises in the Town of Lindsay in the County of Victoria composed of,

- (a) the whole of Park Lots Numbers 9 and 10 west of Albert Street in the said Town of Lindsay, except the following parts:

Firstly: that portion of land conveyed to William Wendt by Edward Murphy by instrument number 1806, dated the 3rd day of April, 1873 and registered in the Registry Office for the County of Victoria on the 22nd day of April, 1873.

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- (b) part of Park Lot 10 west of Albert Street in the said Town of Lindsay described as follows:

Commencing at a point on the northerly limit of the said Lot 10 distant 283 feet 6 inches measured westerly along the said northern limit from the northeast angle of the said Lot; thence westerly along the northerly limit of the said Lot 140 feet, more or less, to a point equidistant from the easterly and westerly limits of the said Lot; thence southerly and parallel with the easterly limit of the said Lot 78 links, more or less, one-fifth of the whole breadth of said Park Lot; thence easterly and parallel with the northerly boundary of the said Lot 140 feet, more or less, to a point distant 283 feet 6 inches from the easterly limit of the said Lot; thence northerly and parallel to the easterly limit of the said Lot 78 links, more or less, to the point of commencement.

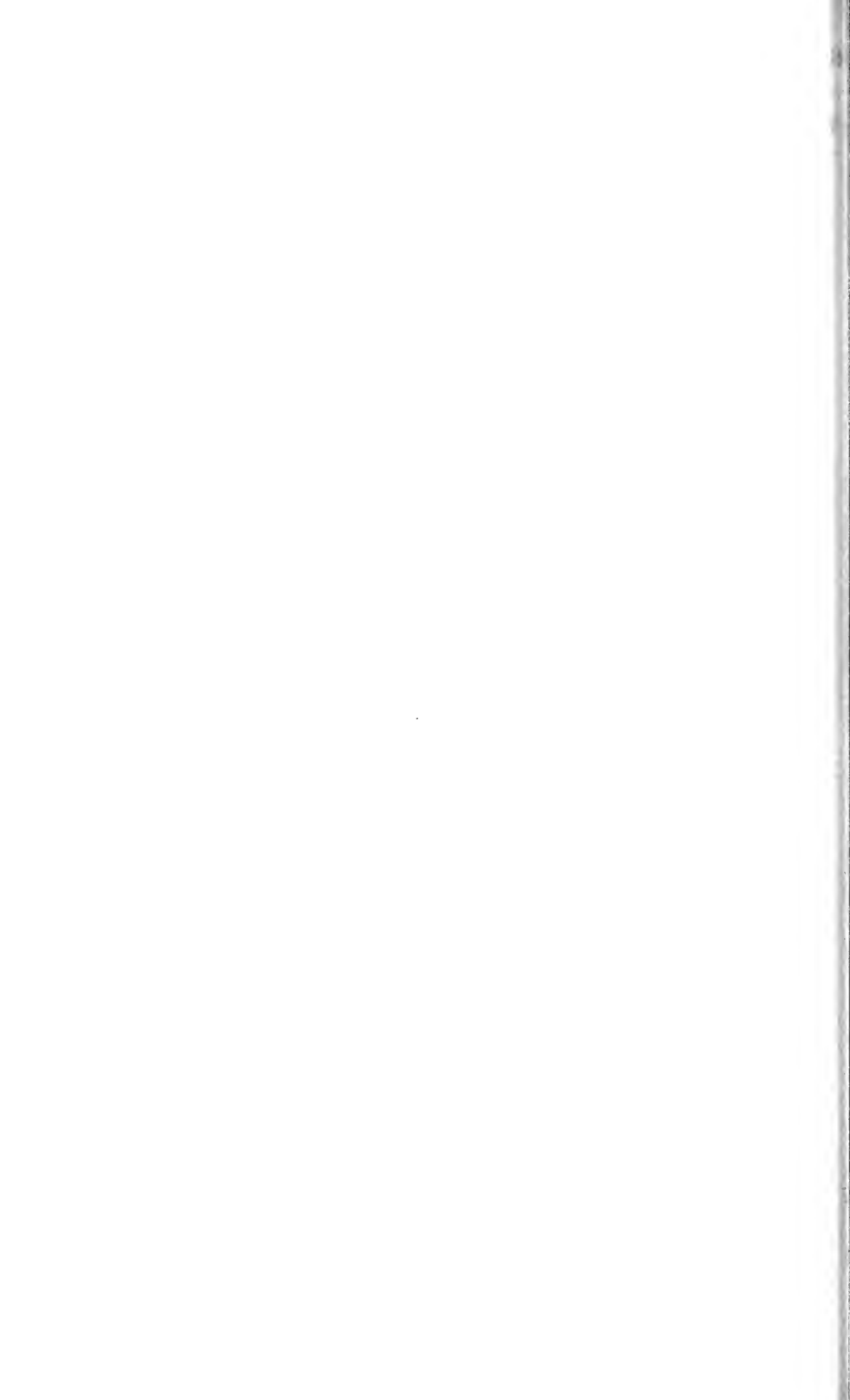
Bill Pr20

*(Chapter Pr15
Statutes of Ontario, 1987)*

An Act respecting the Town of Lindsay

Mr. Miller
(Haldimand-Norfolk)

<i>1st Reading</i>	November 18th, 1986
<i>2nd Reading</i>	June 8th, 1987
<i>3rd Reading</i>	June 8th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr20

1987

An Act respecting the Town of Lindsay

Whereas The Corporation of the Town of Lindsay, herein called the Corporation, hereby represents that by deed dated the 25th day of September, 1925 and registered as instrument number 29355 in the land registry office for the Registry Division of the County of Victoria, William J. Carlisle and Alfred Johnson as trustees conveyed to the Corporation the lands described in the Schedule; that it was a term of the deed that the lands conveyed be held and maintained by the Corporation as a public park and horticultural garden; that the Corporation desires to use or lease the said lands for athletic purposes and there is some doubt as to whether the Corporation may do so under the terms of the deed; and whereas the Corporation applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“Park” means Kawartha Park in the Town of Lindsay as described in the Schedule hereto;

“trust deed” means the instrument registered as instrument number 29355 in the land registry office for the Registry Division of the County of Victoria.

2. Notwithstanding subsection 13 (5) of the *Public Parks Act* or any term or condition set out in the trust deed, the Park may be used for general public park purposes including athletic activities and sports.

Use of park
R.S.O. 1980,
c. 417

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

Commence-
ment

4. The short title of this Act is the *Town of Lindsay Act, 1987*.

Short title

SCHEDULE

The land and premises in the Town of Lindsay in the County of Victoria composed of,

- (a) the whole of Park Lots Numbers 9 and 10 west of Albert Street in the said Town of Lindsay, except the following parts:

Firstly: that portion of land conveyed to William Wendt by Edward Murphy by instrument number 1806, dated the 3rd day of April, 1873 and registered in the Registry Office for the County of Victoria on the 22nd day of April, 1873.

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Commencing at a point on the northerly limit of the said Lot 10 distant 283 feet 6 inches measured westerly along the said northern limit from the northeast angle of the said Lot; thence westerly along the northerly limit of the said Lot 140 feet, more or less, to a point equidistant from the easterly and westerly limits of the said Lot; thence southerly and parallel with the easterly limit of the said Lot 78 links, more or less, one-fifth of the whole breadth of said Park Lot; thence easterly and parallel with the northerly boundary of the said Lot 140 feet, more or less, to a point distant 283 feet 6 inches from the easterly limit of the said Lot; thence northerly and parallel to the easterly limit of the said Lot 78 links, more or less, to the point of commencement.

Bill Pr21

An Act respecting the Association of Registered Wood Energy Technicians of Ontario

Mr. McGuigan

1st Reading June 18th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr21

1987

**An Act respecting the Association of
Registered Wood Energy Technicians of Ontario**

Whereas the members of the Ontario Branch of the Canadian Wood Energy Institute are desirous of being incorporated for the purpose of carrying out the objects of the proposed corporation and of the government and discipline of its members; and whereas it is considered desirable to re-name the Ontario Branch of the Canadian Wood Energy Institute as the Association of Registered Wood Energy Technicians of Ontario; and whereas it is considered desirable to grant the members of the proposed Association the right to use the designation "Registered Wood Energy Technician"; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"Association" means the Association of Registered Wood Energy Technicians of Ontario;

"Board" means the board of governors of the Association;

"registered" means registered as a member under this Act, and "registration" has a corresponding meaning;

"Registrar" means the Registrar of the Association.

2.—(1) The persons named in the Schedule and their successors as members of the Board are constituted a body corporate without share capital under the name of "Association of Registered Wood Energy Technicians of Ontario".

Incorporation

(2) The head office of the Association shall be in The Municipality of Metropolitan Toronto or at such other place

Head office

in the Province of Ontario that may be so designated by the Board.

Objects

3. The objects of the Association are,

- (a) to furnish means and facilities by which members and students of the Association may increase their knowledge, skill and efficiency in all things related to the business or profession of a wood energy technician;
- (b) to hold examinations and set tests of competency appropriate to qualify for admission to membership in the Association;
- (c) to establish and maintain standards of knowledge and skill among its members;
- (d) to maintain discipline among members and students of the Association;
- (e) to establish and maintain standards of professional ethics among members and students of the Association;
- (f) to supervise the practice of members of the Association and students in order that the public interest may be served and protected;
- (g) to seek and maintain membership in the Canadian Wood Energy Institute and to co-operate with other organizations having objects, wholly or in part, the same as or similar to the objects of the Association;
- (h) to accept donations, gifts, legacies and bequests for use in promoting the objects and carrying on the work of the Association; and
- (i) to carry on benevolent work in connection with the families of deceased, retired or incapacitated members who are in need.

Board of
governors

4.—(1) The affairs of the Association shall be managed by the board of governors.

Composition
of Board

(2) The Board shall consist of not fewer than five and not more than fifteen persons elected by and from the membership of the Association as defined by the by-laws of the Board.

(3) The Association may by by-law provide for the appointment to the Board of up to three persons who are not members of the Association. Idem

(4) The immediate past president of the Association shall be an *ex officio* member of the Board if and while that past president is a member of the Association. *Ex officio*
member

(5) Every person who is a past president of the Association or of the Canadian Wood Energy Institute is an honorary member of the Board but as such has only the rights and privileges set out in the by-laws of the Association. Honorary
members

(6) The manner of electing the members of the Board, the notification to the electors of the time and place of holding elections, the nomination of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of an equality of votes, the tenure of office of members of the Board and other necessary details shall be as set out in the by-laws. Matters
covered by
by-law

(7) At any meeting of the Board, three-fifths of the voting members of the Board constitute a quorum. Quorum

(8) The Board shall elect from its members a president, a vice-president and a treasurer and shall appoint a secretary who need not be a member of the Board. Officers

(9) In the case of the death, resignation or incapacity of any member of the Board, other than a past president serving under subsection (4) or (5), the office shall be declared vacant by the Board and the Board shall fill the vacancy in the manner provided by the by-laws for the balance of the term. Vacancies

(10) For the purpose of subsection (9), absence from three consecutive meetings of the Board may be treated by the Board as incapacity. Idem

(11) The Board shall appoint a Registrar, who need not be a member of the Board, and the Registrar shall perform the functions assigned by this Act and such other duties as may be assigned by the Board. Registrar

5. At any general or special meeting of the Board, members may be represented by proxy but, Proxies

- (a) no proxy shall be exercised by a person who is not a member; and

- (b) the proxy shall be exercised in accordance with the by-law on voting and proxies.

Powers of Board

6.—(1) The Board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Association and, without restricting the generality of the foregoing, in addition to the matters specifically provided in this Act, the Board may pass by-laws,

- (a) to prescribe the qualifications for membership in and registration by the Association;
- (b) to prescribe a curriculum and courses of study to be pursued by students and the subjects upon which students and candidates for admission as members of the Association shall be examined and for granting certificates to students and candidates who have successfully passed the examinations;
- (c) to provide for the continuing education and professional development of its members;
- (d) to prescribe the experience criteria to be met by candidates for registration;
- (e) to establish and prescribe such categories of membership as are necessary for the purposes of the Association and in the public interest;
- (f) to regulate and govern the conduct of members of the Association in the practice of their business or profession, by prescribing a code of ethics, rules of professional conduct and standards of practice;
- (g) to provide for the receipt and consideration of complaints made to the Association concerning the conduct of its members and the practice of their business or profession, including the establishment of a complaints committee and procedures therefor;
- (h) to prescribe fees payable to the Association;
- (i) to fix and regulate the time, place, calling and conduct of annual, general and special meetings of the Association and meetings of the Board;
- (j) to establish and provide for the administration of a benevolent fund for the benefit of any member of the Association or the families of deceased members of the Association who may require financial

assistance and, for that purpose, providing for the receipt of contributions or donations;

- (k) to authorize the making of grants for any purpose that may tend to advance wood energy technology, knowledge and education, improve standards of practice in wood energy technology, or support and encourage public information and interest in the safe installation and use of wood energy technology;
- (l) to govern the acquisition, management, disposal and conduct of the property and affairs of the Association;
- (m) to provide for the appointment, removal, functions, duties and remuneration of agents, officers and employees of the Association;
- (n) to establish such committees as the Board may consider necessary to carry out the business of the Association;
- (o) to establish and maintain a professional liability claims fund for the purpose of paying therefrom, subject to the by-laws and any rules made thereunder, professional liability claims against members;
- (p) to provide for and establish requirements for categories of membership or types of projects for which members must secure professional liability insurance, including minimum limits of insured professional liability;
- (q) to enter into any group contract of insurance with an insurer for the payment by the insurer of professional liability claims, in whole or in part, and with or without the expense of adjusting, settling and paying the claim, including legal fees and disbursements, where that claim or expense, if not paid under contract of insurance, would be payable out of the claims fund; and
- (r) to provide for the appointment of an auditor for the Association.

(2) The Board shall pass by-laws,

Mandatory
by-laws

- (a) to provide for and govern the discipline, supervision, expulsion or other penalty for professional misconduct, incapacity or other incompetence;

- (b) to establish a discipline committee and its procedures;
- (c) to establish an appeals committee of the Board and its procedures; and
- (d) to establish a committee and its procedures for reviewing applications for admission.

Proposals by members

(3) A member entitled to vote at an annual, general or special meeting of the Association may make a proposal to make, amend or repeal a by-law.

Notice of proposal

(4) A notice of the member's proposal shall be delivered to the office of the Association at least thirty days before the annual meeting at which it will be considered.

Idem

(5) Upon receiving a proposal from a member to enact, amend or repeal a by-law, the Board shall cause the proposal to be published in the agenda for the next annual meeting of the Association, which agenda shall be distributed to the membership in accordance with the by-laws, but when there is not sufficient time before the next annual meeting of the Association to distribute the proposal in accordance with the by-laws, the proposal shall be contained in the agenda for the next following annual, general or special meeting and shall be distributed to the membership in accordance with the by-laws of the Association.

Special meeting

(6) Twenty per cent of the members entitled to vote at an annual, general or special meeting of the Association may request that the Board call and hold a special meeting to make, amend or repeal a by-law and consider any other business.

Request in writing

(7) A request under subsection (6) shall be in writing and shall set out the reasons for the requested special meeting.

Special meeting convened

(8) Upon receipt of a request under subsection (6), the Board shall call and convene the meeting in accordance with the by-laws.

By-laws to be ratified

(9) No by-law or change to an existing by-law is effective until it is ratified by the voting members of the Association at an annual, general or special meeting.

By-laws open to public

(10) The by-laws shall be open to examination by the public at the head office of the Association during normal office hours.

7.—(1) The Association shall grant a membership in the Association to every person who applies therefor in accordance with the by-laws if the person, Membership

- (a) is not less than eighteen years of age;
- (b) has complied with the academic and experience requirements specified in the by-laws for the issuance of membership;
- (c) has passed such examinations as the Board may set or approve in accordance with the by-laws; and
- (d) in the opinion of the Board, is likely to carry on the practice of wood energy technology in accordance with law and with integrity and honesty.

(2) The by-laws shall provide that an application for membership may be refused or a disciplinary sanction may be imposed only after a hearing. Hearing

(3) The Registrar shall keep a register in which shall be entered the names of all members of the Association in good standing and only those persons so registered are members entitled to the privileges of membership in the Association. Register

(4) The register shall be open to examination by the public at the head office of the Association during normal office hours. Register open to public

(5) A person who has been refused membership or who has been subject to a disciplinary sanction under the by-laws may appeal to the Divisional Court in accordance with the rules of court from the refusal to grant membership or from the sanction. Appeals

(6) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from. Record

(7) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper and, for such purposes, the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing, in Power of court

whole or in part, in accordance with such directions as the court considers proper.

- Designation** **8.**—(1) Every member of the Association may use the designation “Registered Wood Energy Technician” and may use after the member’s name the initials “A.R.W.E.T.O.” indicating that the member is a Registered Wood Energy Technician in Ontario.
- Offence** (2) Any person in Ontario who, not being a registered member of the Association, takes or uses the designation “Registered Wood Energy Technician” or “A.R.W.E.T.O.” along or in combination with any other word, name, title, initial or description, or implies, suggests or holds out that that person is a Registered Wood Energy Technician is guilty of an offence.
- Unregistered** (3) No person who is not a Registered Wood Energy Technician may bring an action in Ontario in any court or collect fees, compensation or other remuneration for services performed as a Registered Wood Energy Technician.
- Evidence** (4) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the Registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register and any certificate upon such copy of the register purporting to be signed by a person in that person’s capacity as Registrar is proof, in the absence of evidence to the contrary, that such a person is the Registrar without any proof of that person’s signature or that the person is the Registrar.
- Idem** (5) The absence of the name of any person from a copy of the register produced under subsection (4) is proof, in the absence of evidence to the contrary, that the person is not registered.
- Removal from register** **9.**—(1) The Board shall cause the removal of the name of a member from the register,
- (a) at the request or with the written consent of the member whose name is to be removed;
 - (b) where the name has been incorrectly entered;
 - (c) where notification is received of a member’s death; or

- (d) where the registration of a member has been suspended or revoked through disciplinary proceedings.

(2) Subject to subsection (3), the Board, on such grounds as it considers sufficient, may cause the name of a person removed from the register to be restored thereto either without fee or upon payment to the Association of,

Restoration
to register

- (a) a sum not exceeding the fees or other sums in arrears and owing by the person to the Association; and
- (b) such additional sum as may be prescribed by the by-laws.

(3) Where the name of a person who has been suspended or whose registration has been suspended or revoked under clause (1) (d) is to be restored to the register under subsection (2), the Board may by resolution direct that the name be restored subject to such terms and conditions as the Board may impose.

Idem

10. The Board shall cause a certificate of membership to be issued each year to every person whose name is entered in the register and the certificate shall state the date upon which it expires, the type of membership and every condition and limitation imposed on the person to whom the certificate is issued.

Certificate of
membership

11. This Act does not affect or interfere with the right of any person who is not a member of the Association to practise as a wood energy technician in the Province of Ontario.

Right to
practise
unaffected

12. All surplus derived from carrying on the affairs and business of the Association shall be devoted and applied solely in promoting and carrying out its objects and purposes and no surplus shall be divided among its members.

Surplus

13. No action or other proceeding for damages shall be instituted against,

Liability

- (a) the Association, the Board or a committee of the Association;
- (b) a member of the Association, the Board or a committee of the Association; or
- (c) an officer, employee, agent or appointee of the Association,

for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Commence-
ment

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

Short title

15. The short title of this Act is the *Association of Registered Wood Energy Technicians of Ontario Act, 1987*.

SCHEDULE

Edward Catton

Robert Galt

Pamela Howard

Robert Leman

Arthur Olson

Bill Pr24

An Act respecting the Hamilton Civic Hospitals

Mr. Ward

1st Reading June 29th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill revises the Act of incorporation of Hamilton Civic Hospitals. The Bill alters the number and manner of appointment of the board of directors of the hospital corporation.

The Bill also eliminates the capital grant power of The Regional Municipality of Hamilton-Wentworth and the responsibility of the Regional Municipality for the operating grants or operational deficits of Hamilton Civic Hospitals.

Bill Pr24

1987

An Act respecting the Hamilton Civic Hospitals

Whereas the Hamilton Civic Hospitals, herein called the corporation, hereby represents that it was incorporated by *The Hamilton Civic Hospitals Act, 1961-62*, being chapter 152, under the name "The Board of Governors of the Hamilton Civic Hospitals"; that by supplementary letters patent dated the 17th day of May, 1977, the name of the corporation was changed to "Hamilton Civic Hospitals"; and whereas the special Act was revised by *The Hamilton Civic Hospitals Act, 1978*, being chapter 121; and whereas The Regional Municipality of Hamilton-Wentworth and the corporation wish to revise the corporation's Act of incorporation so that the Regional Municipality will no longer be responsible for the operating grants or operational debt of the corporation and so that the regional representation on the board of directors of the corporation is decreased; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"board" means the board of directors of the corporation;

"City" means The Corporation of the City of Hamilton;

"city council" means the council of the City;

"hospitals" means the hospitals and related facilities operated by the corporation;

"Region" means The Regional Municipality of Hamilton-Wentworth;

"regional council" means the council of The Regional Municipality of Hamilton-Wentworth.

Corporation
continued

2. Hamilton Civic Hospitals is hereby continued as a corporation without share capital and shall be composed of those persons who comprise its board.

Objects and
purposes

3. The objects and purposes of the corporation are to operate, maintain and manage the hospitals.

Board of
directors

4.—(1) The board shall be constituted as follows:

1. The mayor of the City, but if the mayor is unwilling or unable to be a member of the board, a member of city council appointed by city council for the remainder of the term for which the mayor was elected.
2. The chairman of the Region or, if the chairman is unwilling or unable to be a member of the board, a member of the regional council appointed by regional council for the remainder of the term for which the chairman was elected or appointed.
3. One person appointed by and from the regional council for the term of the regional council, so long as that person remains a member of the regional council.
4. One person appointed by and from the city council for the term of the city council, so long as that person remains a member of the city council.
5. The president of the Volunteer Association of Hamilton Civic Hospitals.
6. Sixteen persons appointed by the city council for a term of four years of whom eight shall be nominated by the city council and eight shall be nominated by The Hamilton Civic Hospitals Foundation.
7. Such persons as are provided for under the *Public Hospitals Act*.

R.S.O. 1980,
c. 410

Transition

(2) Every member of the board in office immediately before the coming into force of this Act shall continue to hold office until the term of office of the member expires.

Eligibility

(3) A person elected to the regional council or the city council is not eligible to be appointed a member of the board under paragraph 6 of subsection (1) during the term for which that person was elected.

- (4) If a vacancy occurs in the membership of the board, the body who appointed the member shall appoint a person to fill the vacancy and the appointee shall hold office for the remainder of the unexpired term of the vacating member. Vacancy
- (5) Members of the board are eligible for reappointment. Reappointment
- (6) The board shall meet at least once every three months. Meetings of board
- (7) The board may elect from the members an executive committee consisting of not less than three and not more than seven members and delegate to the executive committee any of its powers. Executive committee
- (8) Nine members constitute a quorum of the board. Quorum
- (9) The members of the board shall serve without remuneration except for actual disbursements incurred in connection with the affairs of the corporation and approved by the board. Remuneration
5. The board may, Powers
- (a) subject to the *Public Hospitals Act*, enact by-laws for the general management, operation and maintenance of the hospitals; R.S.O. 1980, c. 410
- (b) subject to the *Health Insurance Act*, fix the fees to be charged to patients for accommodation in and services rendered by the hospitals; R.S.O. 1980, c. 197
- (c) invest any funds of the corporation in such securities as are authorized by law for investment by trustees under the *Trustee Act*; and R.S.O. 1980, c. 512
- (d) subject to the *Public Hospitals Act*, plan, contract for and supervise the erection, equipping and furnishing of additional hospitals and the alteration or enlargement of existing hospitals to the extent of any funds available from any source for such purposes.
- 6.—(1) All personal property used by the corporation in the operation of the hospitals is vested in the corporation. Personal property
- (2) The lands, buildings and fixtures owned by the City on the day this Act comes into force for hospital purposes shall continue to be vested in the City until the same or any portions thereof are sold or otherwise disposed of by the City, and the City may continue to acquire and hold lands, buildings and fixtures for hospital purposes. Property owned by City

Sale or disposal of property owned by City

(3) The City shall not sell or otherwise dispose of any lands, building or fixtures used for hospital purposes unless,

- (a) they are no longer required for hospital purposes; and
- (b) the corporation consents to the sale or disposal.

Liabilities

7. The corporation is responsible for the payment of all liabilities in respect of the general management, operation and maintenance of the hospitals.

Auditor

R.S.O. 1980, c. 405

8.—(1) The board shall appoint a public accountant licensed under the *Public Accountancy Act* as auditor of the corporation.

Annual report

(2) The annual report of the corporation shall be submitted to city council.

Gift, etc.

9. All gifts, trusts, bequests, devises and grants of real or personal property in a deed or will, to the City Hospital of Hamilton, now known as Hamilton General Hospital, the Mount Hamilton Hospital, the Nora-Frances Henderson Hospital or Hamilton Civic Hospitals, shall, in the absence of an expressed intention to the contrary set out in such deed or will, be construed as though the same had been expressed to be made, in the case of personal property, to the corporation and, in the case of real property, to the City for the purposes of the corporation.

Right of recourse

10. Any payment made by the Region of an account to it by the corporation for treatment of a patient or for any expenses of burial of a deceased patient may be recovered by the Region in the same manner as a municipality under section 24 or 25 of the *Public Hospitals Act*.

R.S.O. 1980, c. 410

Claims against corporation

11. All claims, accounts and demands arising from or relating to the management, operation or maintenance of the hospitals, or from the exercise of any of the powers of the board, shall be made upon and brought against the corporation and not upon or against the City or the Region.

Insurance

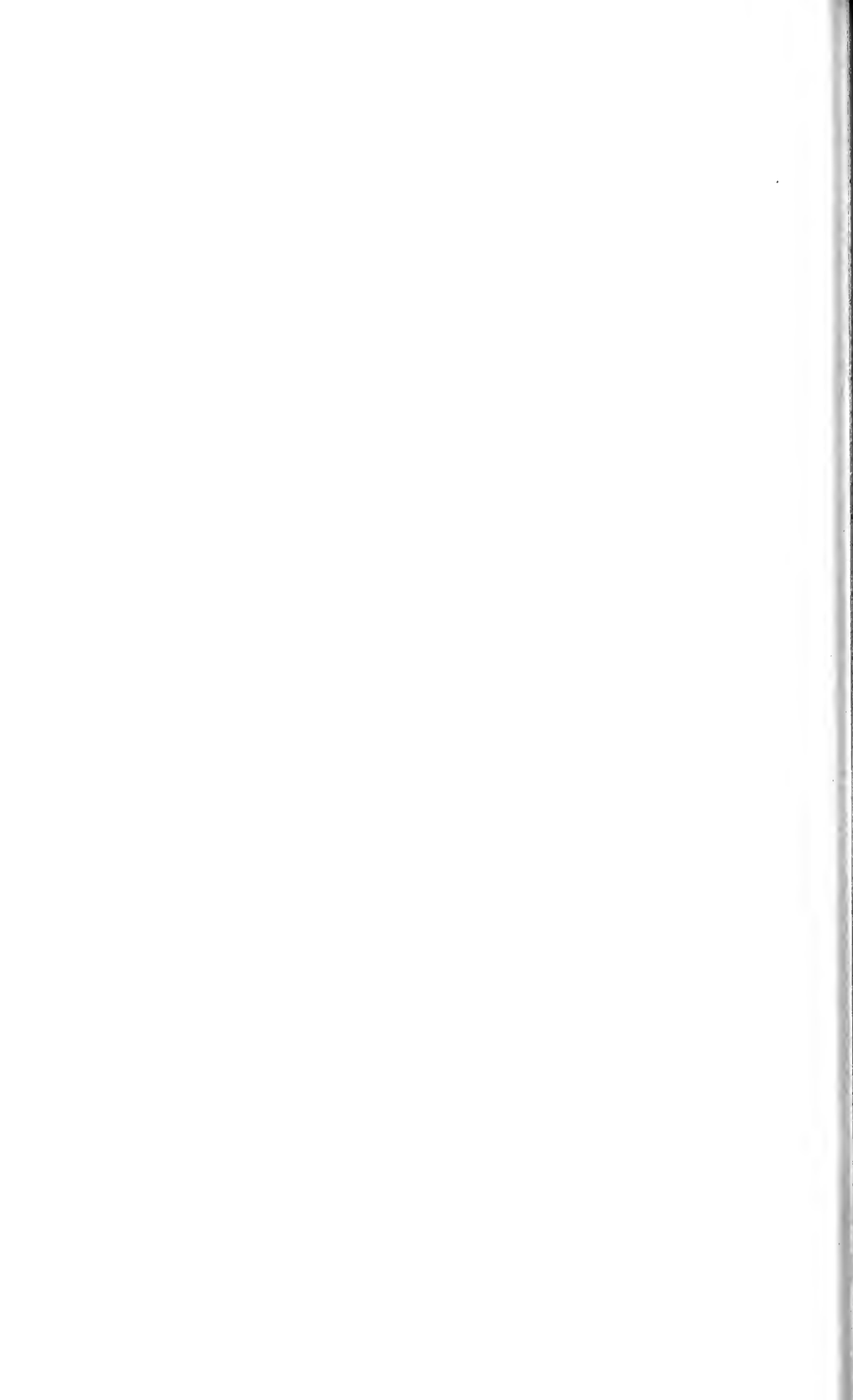
12. The corporation shall carry adequate insurance on property used by the corporation in the operation of the hospitals including public liability and indemnity insurance in connection with the general management, operation and maintenance of the hospitals.

Repeal

13. *The Hamilton Civic Hospitals Act, 1978*, being chapter 121, is repealed.

14. This Act comes into force on the day it receives Royal Assent. Commence-
ment

15. The short title of this Act is the *Hamilton Civic Hospitals Act, 1987*. Short title



Bill Pr39

An Act respecting Canadian Opera Company

Ms Fish

1st Reading February 4th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would authorize The Corporation of the City of Toronto to exempt the lands owned, occupied and used by the Canadian Opera Company from taxes for municipal and school taxes, other than local improvement rates.

Bill Pr39

1987

An Act respecting Canadian Opera Company

Whereas Canadian Opera Company hereby represents that it was incorporated under the laws of Ontario by letters patent dated the 13th day of November, 1950; that Canadian Opera Company is a registered charitable organization within the meaning of the *Income Tax Act* (Canada); that Canadian Opera Company, on the 30th day of March, 1984, acquired a freehold interest in lands located in the City of Toronto and known municipally as 227 Front Street East, and took possession thereof on the 1st day of February, 1985; that the lands are used for public workshops, performances and other presentations, rehearsals, recording, storage and the creation of scenery and costumes; and whereas Canadian Opera Company hereby applies for special legislation to exempt the aforesaid real property, occupied and used by it in the City of Toronto from taxation for municipal and school purposes except for local improvement rates; and whereas it is expedient to grant the application;

Preamble

R.S.C. 1952,
c. 148

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

1.—(1) The council of The Corporation of the City of Toronto may pass by-laws exempting from taxes for municipal and school purposes, other than local improvement rates, the land, as defined in the *Assessment Act*, occupied by Canadian Opera Company and described in the Schedule, so long as the land is owned, occupied and used solely for the purposes of Canadian Opera Company.

Tax
exemption

R.S.O. 1980,
c. 31

(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

Conditions

2. For the purposes of subsection 219 (8) of the *Municipality of Metropolitan Toronto Act*, an exemption from taxation granted under section 1 shall be deemed to be an exemption under section 3 of the *Assessment Act*.

Deemed
exemption
R.S.O. 1980,
cc. 314, 31

- Retroactivity** **3.** A by-law passed under section 1 may be retroactive to the 1st day of February, 1985.
- Reimbursement of taxes already paid** **4.—(1)** The council of The Corporation of the City of Toronto and the council of The Municipality of Metropolitan Toronto may by by-law reimburse Canadian Opera Company for taxes, or any portion thereof, paid in respect of the lands referred to in section 1 for the period commencing on the 1st day of February, 1985, and ending on the day that a by-law passed under section 1 comes into force.
- Idem** **(2)** The Board of Education for the City of Toronto and The Metropolitan Toronto School Board may, by resolution, reimburse Canadian Opera Company for school taxes, or any portion thereof, paid in respect of the lands referred to in section 1 for the period commencing on the 1st day of February, 1985, and ending on the day that a by-law passed under section 1 comes into force.
- Commencement** **5.** This Act comes into force on the day it receives Royal Assent.
- Short title** **6.** The short title of this Act is the *Canadian Opera Company Act, 1987*.

SCHEDULE

Firstly, the land and premises in the City of Toronto in The Municipality of Metropolitan Toronto being composed of all of lots 6, 7, 8, 9 and 10 on the south side of Front Street East according to a plan registered in the Land Registry Office for the Registry Division of Toronto (63) as No. D-277.

Secondly, the land and premises in the City of Toronto in The Municipality of Metropolitan Toronto being composed of lots 11, 12, 13 and 14 according to a plan registered in the Land Registry Office for the Registry Division of Toronto (63) as Number D-277 and part of the strip of land denominated by the letter "H" on a plan of the Town of York known as The Walks and Gardens and abstracted as part of a plan registered in the said Land Registry Office (63) as Number 5 A, the boundaries of the said parcel being described as follows:

Premising that all bearings herein are astronomic and are related to longitude 79° 30' west.

Commencing at the northwesterly angle of the said Lot 11 being the point of intersection of the southerly limit of Front Street East with the existing westerly limit of the said Lot 11 as represented by the westerly face of the westerly wall of the brick building standing upon the lands herein described.

Thence north 72° 78' 50" east along the said southerly limit of Front Street being also in part along the northerly limits of the said lots 11, 12, 13 and 14, a distance of 211.54 feet, more or less, to the point of intersection thereof with the southwestery limit of lands expropriated for the widening of Front Street and dedicated as public road by by-law No. 92-73 of The Corporation of the City of Toronto;

Thence south 67° 39' east along the last mentioned southwestery limit a distance of 14.79 feet to an angle therein;

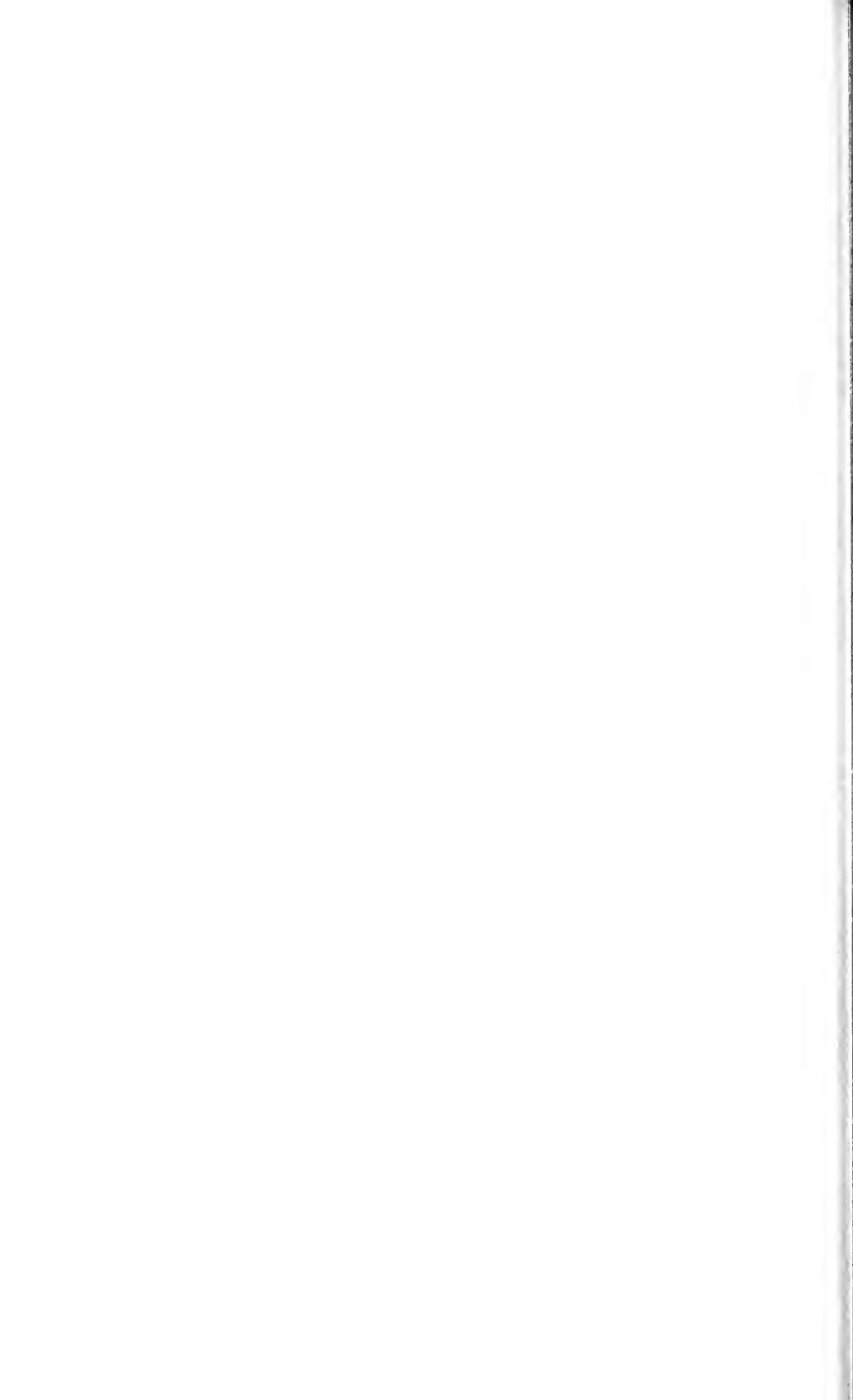
Thence south 56° 36' 30" east continuing along the last mentioned southwestery limit a distance of 13.53 feet, more or less, to the point of intersection with the westerly limit of Berkeley Street;

Thence south 17° 13' 10" east along the said westerly limit of Berkeley Street a distance of 100.00 feet, more or less, to the northerly limit of a lane 15.00 feet in width;

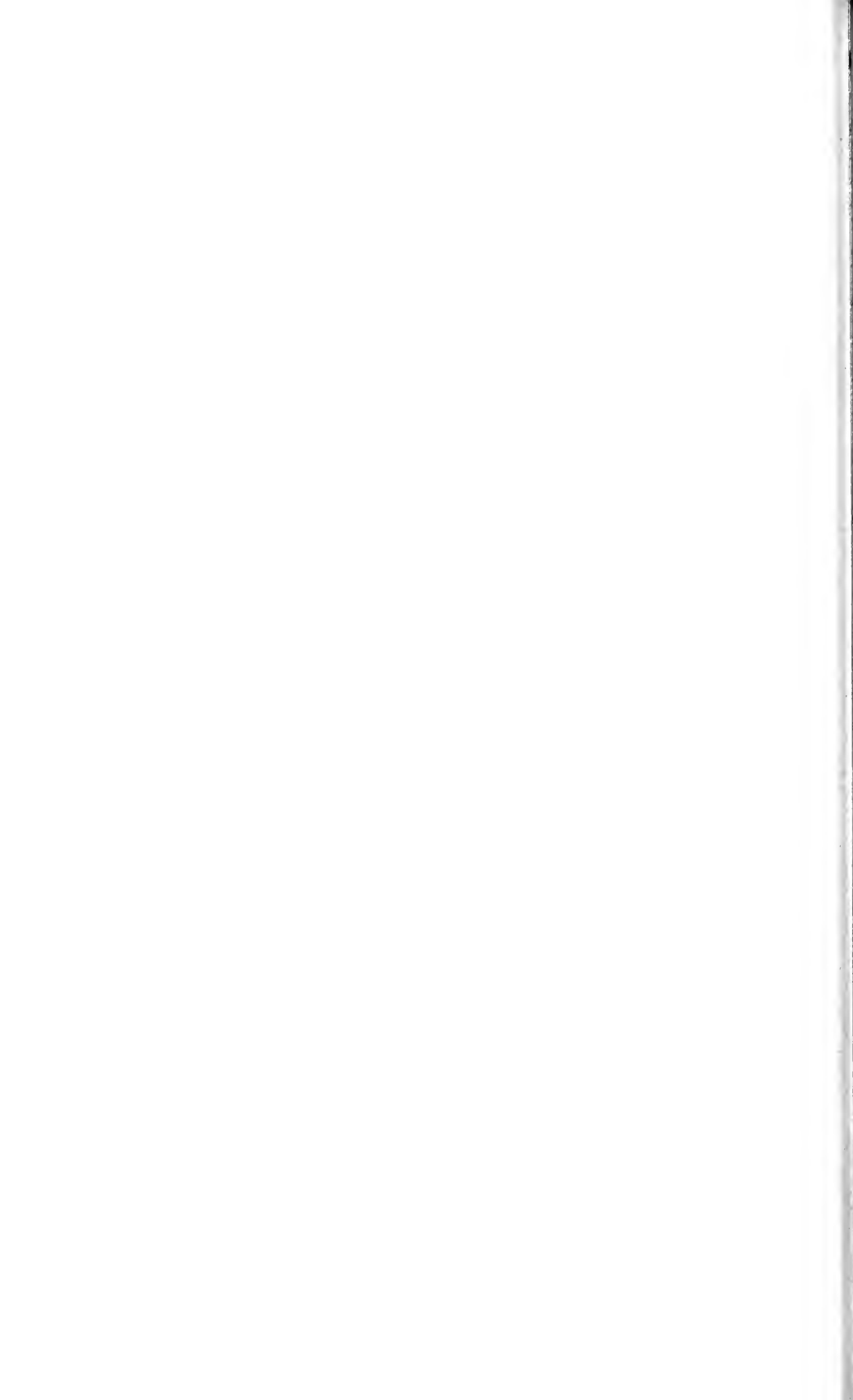
Thence south 72° 28' 50" west along the said northerly limit of land being also in part along the southerly limits of lots 14, 13, 12 and 11, a distance of 232.00 feet, more or less, to the southwestery angle of the said Lot 11;

Thence north 17° 00' 00" west along the westerly limit of the said Lot 11, a distance of 120.00 feet, more or less, to the said point of commencement.

Together with the use of a lane in common with others 15 feet wide in rear of said property with exit to Princess Street.







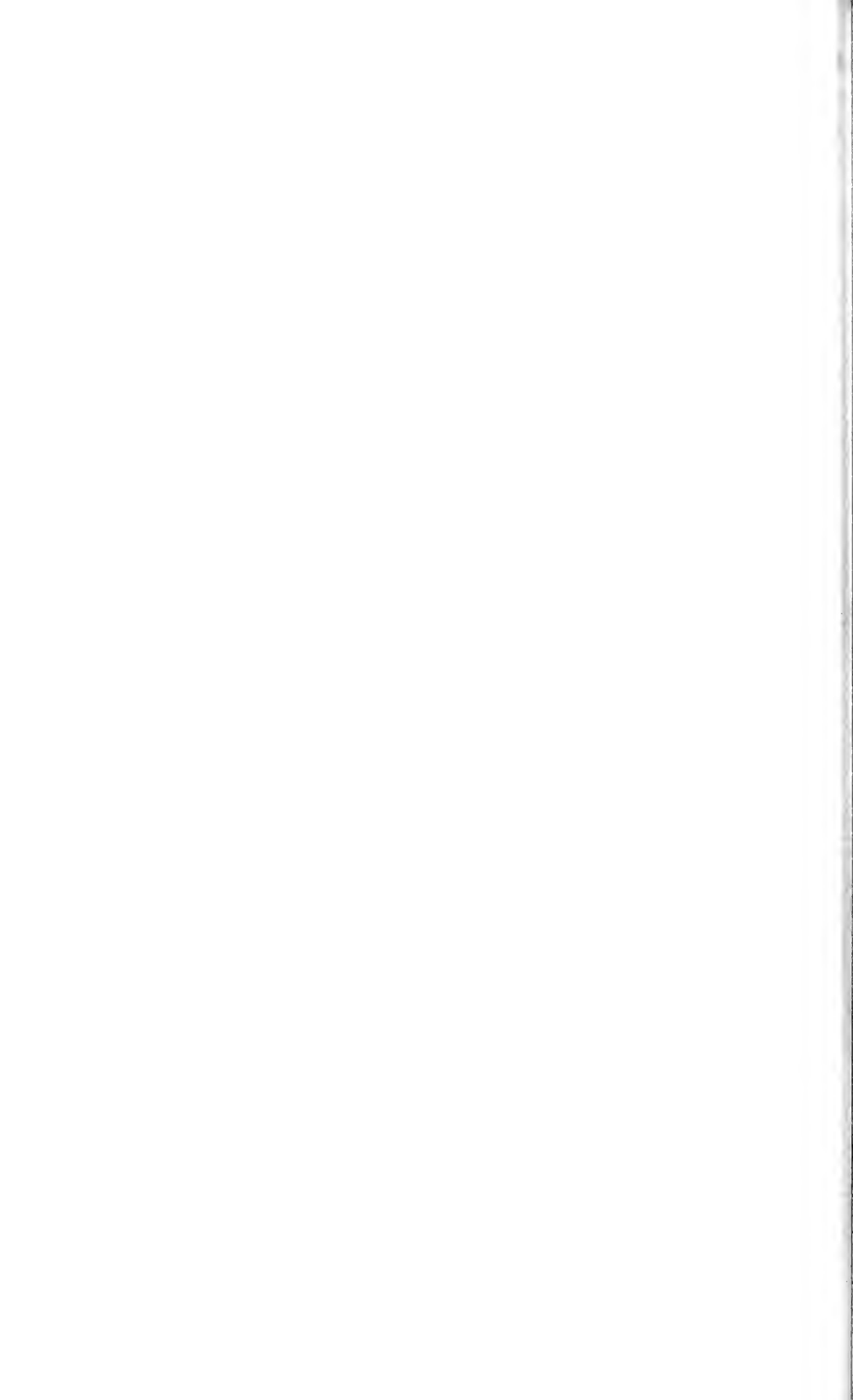
Bill Pr39

*(Chapter Pr16
Statutes of Ontario, 1987)*

An Act respecting Canadian Opera Company

Ms Fish

<i>1st Reading</i>	February 4th, 1987
<i>2nd Reading</i>	June 8th, 1987
<i>3rd Reading</i>	June 8th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr39

1987

An Act respecting Canadian Opera Company

Whereas Canadian Opera Company hereby represents that it was incorporated under the laws of Ontario by letters patent dated the 13th day of November, 1950; that Canadian Opera Company is a registered charitable organization within the meaning of the *Income Tax Act* (Canada); that Canadian Opera Company, on the 30th day of March, 1984, acquired a freehold interest in lands located in the City of Toronto and known municipally as 227 Front Street East, and took possession thereof on the 1st day of February, 1985; that the lands are used for public workshops, performances and other presentations, rehearsals, recording, storage and the creation of scenery and costumes; and whereas Canadian Opera Company hereby applies for special legislation to exempt the aforesaid real property, occupied and used by it in the City of Toronto from taxation for municipal and school purposes except for local improvement rates; and whereas it is expedient to grant the application;

Preamble

R.S.C. 1952,
c. 148

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

1.—(1) The council of The Corporation of the City of Toronto may pass by-laws exempting from taxes for municipal and school purposes, other than local improvement rates, the land, as defined in the *Assessment Act*, occupied by Canadian Opera Company and described in the Schedule, so long as the land is owned, occupied and used solely for the purposes of Canadian Opera Company.

Tax
exemptionR.S.O. 1980,
c. 31

(2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

Conditions

2. For the purposes of subsection 219 (8) of the *Municipality of Metropolitan Toronto Act*, an exemption from taxation granted under section 1 shall be deemed to be an exemption under section 3 of the *Assessment Act*.

Deemed
exemption
R.S.O. 1980,
cc. 314, 31

- Retroactivity **3.** A by-law passed under section 1 may be retroactive to the 1st day of February, 1985.
- Reimburse-
ment of taxes
already paid **4.**—(1) The council of The Corporation of the City of Toronto and the council of The Municipality of Metropolitan Toronto may by by-law reimburse Canadian Opera Company for taxes, or any portion thereof, paid in respect of the lands referred to in section 1 for the period commencing on the 1st day of February, 1985, and ending on the day that a by-law passed under section 1 comes into force.
- Idem (2) The Board of Education for the City of Toronto and The Metropolitan Toronto School Board may, by resolution, reimburse Canadian Opera Company for school taxes, or any portion thereof, paid in respect of the lands referred to in section 1 for the period commencing on the 1st day of February, 1985, and ending on the day that a by-law passed under section 1 comes into force.
- Commence-
ment **5.** This Act comes into force on the day it receives Royal Assent.
- Short title **6.** The short title of this Act is the *Canadian Opera Company Act, 1987*.

SCHEDULE

Firstly, the land and premises in the City of Toronto in The Municipality of Metropolitan Toronto being composed of all of lots 6, 7, 8, 9 and 10 on the south side of Front Street East according to a plan registered in the Land Registry Office for the Registry Division of Toronto (63) as No. D-277.

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Premising that all bearings herein are astronomic and are related to longitude 79° 30' west.

Commencing at the northwesterly angle of the said Lot 11 being the point of intersection of the southerly limit of Front Street East with the existing westerly limit of the said Lot 11 as represented by the westerly face of the westerly wall of the brick building standing upon the lands herein described.

Thence north 72° 78' 50" east along the said southerly limit of Front Street being also in part along the northerly limits of the said lots 11, 12, 13 and 14, a distance of 211.54 feet, more or less, to the point of intersection thereof with the southwesterly limit of lands expropriated for the widening of Front Street and dedicated as public road by by-law No. 92-73 of The Corporation of the City of Toronto;

Thence south 67° 39' east along the last mentioned southwesterly limit a distance of 14.79 feet to an angle therein;

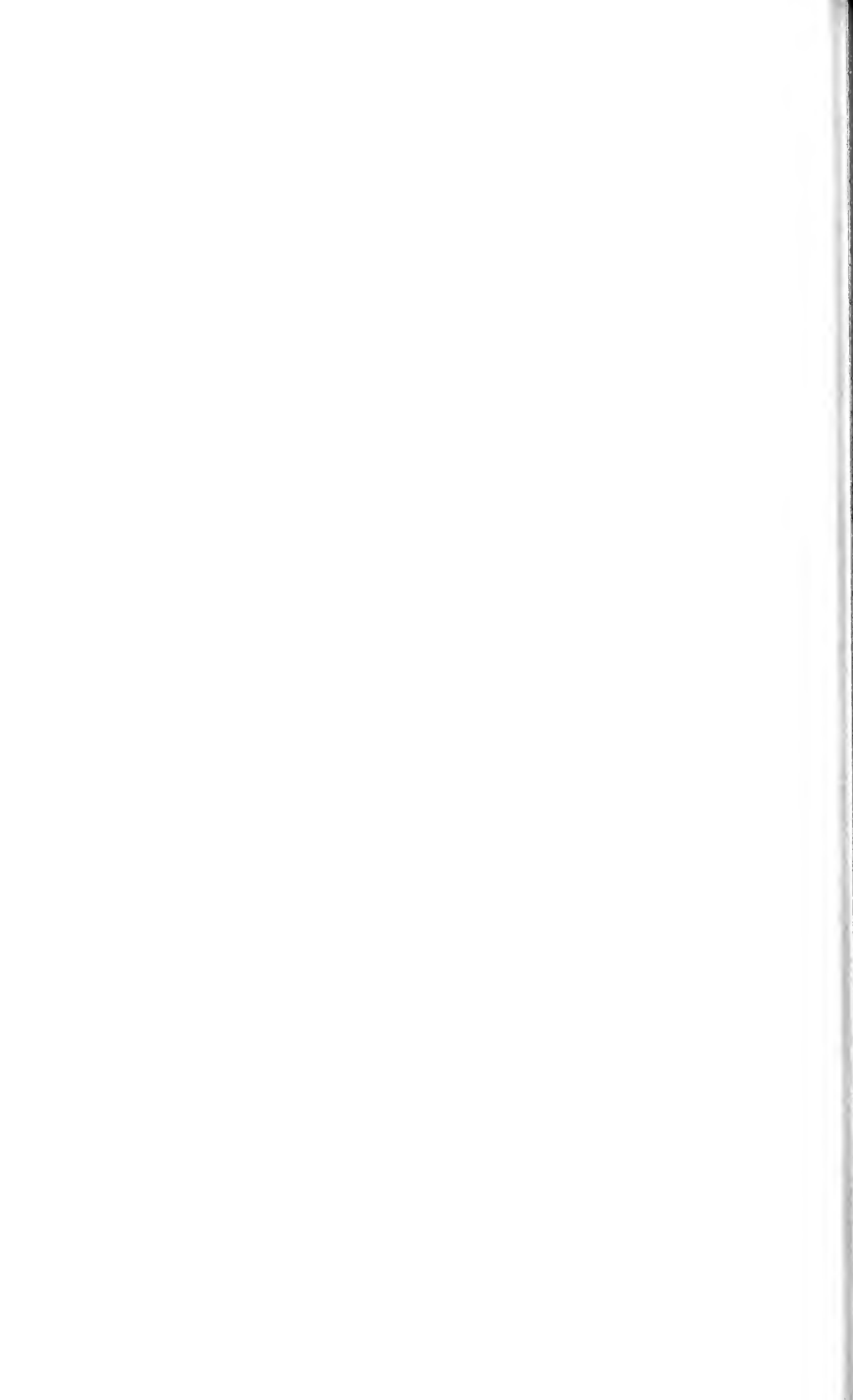
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Thence south 17° 13' 10" east along the said westerly limit of Berkeley Street a distance of 100.00 feet, more or less, to the northerly limit of a lane 15.00 feet in width;

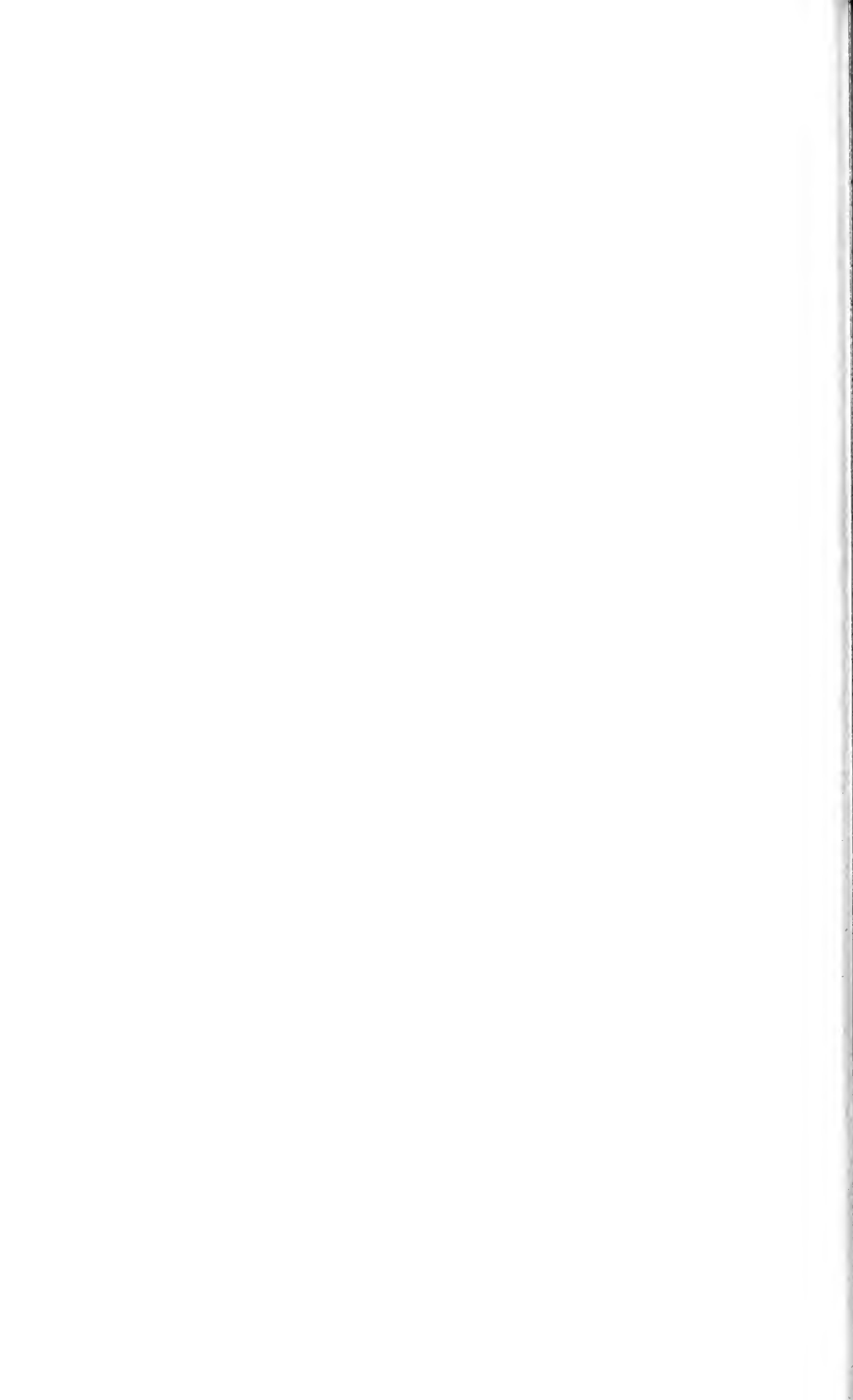
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Thence north 17° 00' 00" west along the westerly limit of the said Lot 11, a distance of 120.00 feet, more or less, to the said point of commencement.

Together with the use of a lane in common with others 15 feet wide in rear of said property with exit to Princess Street.







Bill Pr45

An Act respecting the City of Barrie

Mr. Rowe

1st Reading May 26th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to permit the City of Barrie to refuse to allow an owner of land in specified areas to connect or use sanitary sewers or water mains newly-installed by the City or the Public Utilities Commission of the City of Barrie until the owner has paid his or her share of the cost of such installation.

Bill Pr45

1987

An Act respecting the City of Barrie

Whereas The Corporation of the City of Barrie, herein called the Corporation, hereby represents that as a result of a tornado which passed through the City of Barrie on the 31st day of May, 1985, extensive damage occurred in areas of the City; that the Corporation arranged for sanitary sewers and water mains to be installed to the damaged areas; that the Corporation wishes to recover a portion of the costs of the installation from the owners of land who were not victims of the tornado but who derived a benefit from such installation; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1.—(1) If sanitary sewers or water mains have been installed or constructed,

Conditions
for
connection of
sanitary
sewers, water
mains

- (a) after the 30th day of May, 1985 at a cost, in whole or in part, to the Corporation or the Public Utilities Commission of the City of Barrie; and
- (b) in, upon, over or under the highways, lands or easements owned by the Corporation in the area set out in the Schedule,

the Corporation or the Public Utilities Commission of the City of Barrie may, in respect of any land whose owner would benefit therefrom, refuse to connect or prohibit the connection or use of the said works until the share of the costs attributable to such land, as assessed by the Corporation, has been paid to the Corporation or the Public Utilities Commission of the City of Barrie.

(2) The costs of a work under subsection (1) may include interest calculated from the date of completion at the same rate as interest is calculated on arrears of taxes under section 412 of the *Municipal Act*.

Interest may
be charged

Commence-
ment

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

Short title

3. The short title of this Act is the *City of Barrie Act, 1987*.

SCHEDULE

SANITARY SEWERS

Patterson Road

From Morrow Road, a distance of approximately 385 metres south and terminating at approximately the middle of the lot known as 152 Patterson Road.

Patterson Place

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Crawford Street

From Patterson Place, a distance of approximately 125 metres south and terminating in front of the north end of house number 258.

WATER MAINS

Patterson Road

From Morrow Road to Ardagh Road, a distance of approximately 775 metres, terminating on the northside of Ardagh Road.

Patterson Place

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Crawford Street

From Alva Street to Ardagh Road, a distance of approximately 830 metres, terminating on the north side of Ardagh Road.

Ardagh Road

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Bill Pr45

An Act respecting the City of Barrie

Mr. Rowe

1st Reading May 26th, 1987
2nd Reading
3rd Reading
Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTE

The purpose of the Bill is to permit the City of Barrie to refuse to allow an owner of land in specified areas to connect or use sanitary sewers or water mains newly-installed by the City or the Public Utilities Commission of the City of Barrie until the owner has paid his or her share of the cost of such installation.

Bill Pr45

1987

An Act respecting the City of Barrie

Whereas The Corporation of the City of Barrie, herein called the Corporation, hereby represents that as a result of a tornado which passed through the City of Barrie on the 31st day of May, 1985, extensive damage occurred in areas of the City; that the Corporation arranged for sanitary sewers and water mains to be installed to the damaged areas; that the Corporation wishes to recover a portion of the costs of the installation from the owners of land who were not victims of the tornado but who derived a benefit from such installation; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

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1.—(1) If sanitary sewers or water mains have been installed or constructed,

Conditions
for
connection of
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sewers, water
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- (a) after the 30th day of May, 1985 at a cost, in whole or in part, to the Corporation or the Public Utilities Commission of the City of Barrie; and
- (b) in, upon, over or under the highways, lands or easements owned by the Corporation in the area set out in the Schedule,

the Corporation or the Public Utilities Commission of the City of Barrie may, in respect of any land whose owner would benefit therefrom, refuse to connect or prohibit the connection or use of the said works until the share of the costs attributable to such land, as assessed by the Corporation, has been paid to the Corporation or the Public Utilities Commission of the City of Barrie.

(2) The costs of a work under subsection (1) may include interest calculated from the date of completion at a rate not to exceed the highest prime rate quoted on the day that the work was completed.

Interest may
be charged

Definition

1980-81,
c. 40 (Can.)

(3) In subsection (2), "prime rate" means the lowest rate of interest quoted by a chartered bank, named in Schedule A to the *Bank Act* (Canada), to its most credit-worthy borrowers for prime business loans.

Restriction

R.S.O. 1980,
c. 302

(4) A by-law passed by the council of the Corporation prior to the coming into force of this Act under section 219 of the *Municipal Act* or a predecessor thereof does not apply to the owner of a building on land against which a share of the costs has been assessed under subsection (1).

Commence-
ment

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

Short title

3. The short title of this Act is the *City of Barrie Act, 1987*.

SCHEDULE

SANITARY SEWERS

Patterson Road

From Morrow Road, a distance of approximately 385 metres south and terminating at approximately the middle of the lot known as 152 Patterson Road.

Patterson Place

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From Patterson Place, a distance of approximately 125 metres south and terminating in front of the north end of house number 258.

WATER MAINS

Patterson Road

From Morrow Road to Ardagh Road, a distance of approximately 775 metres, terminating on the northside of Ardagh Road.

Patterson Place

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Crawford Street

From Alva Street to Ardagh Road, a distance of approximately 830 metres, terminating on the north side of Ardagh Road.

Ardagh Road

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

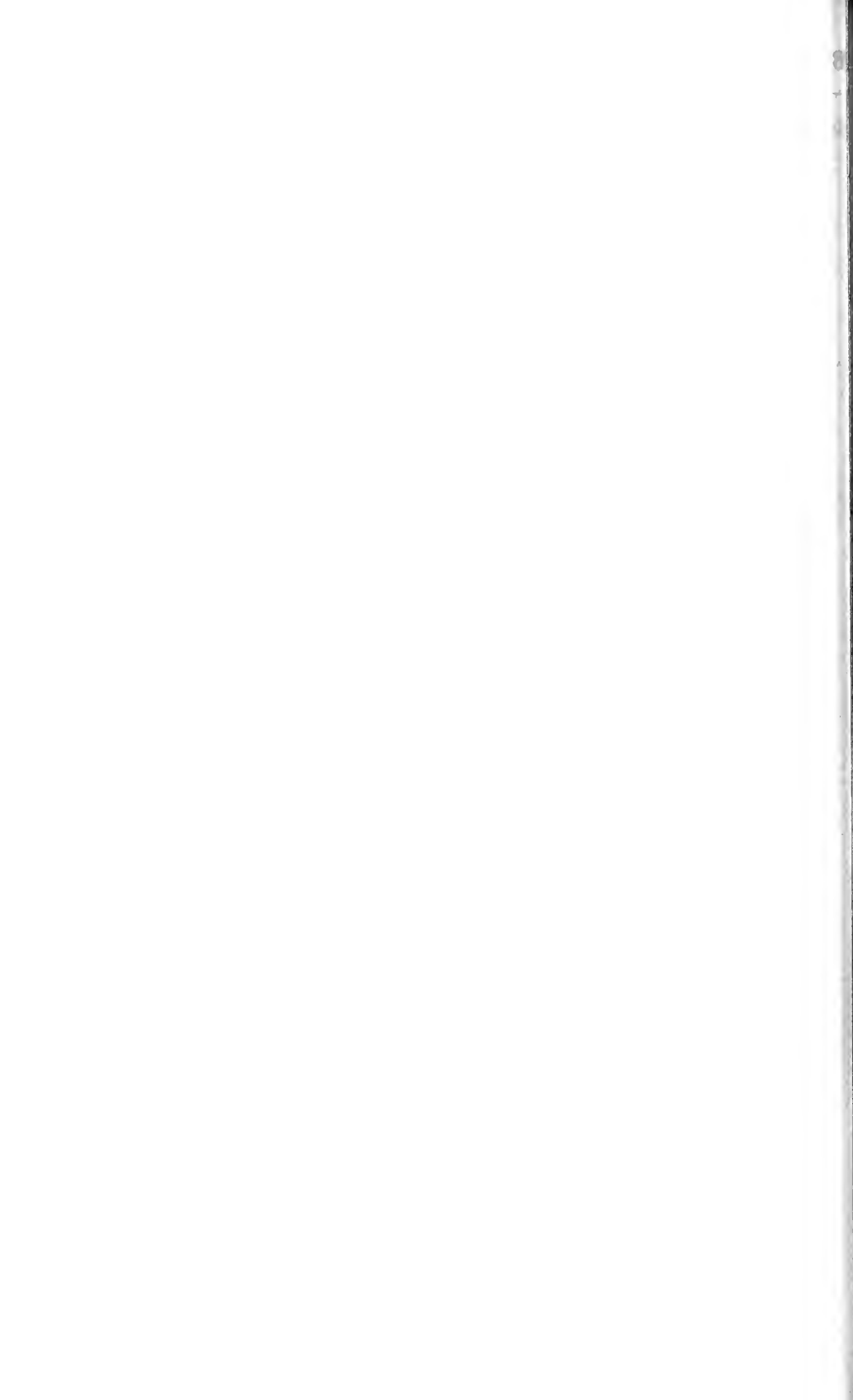
Bill Pr45

*(Chapter Pr17
Statutes of Ontario, 1987)*

An Act respecting the City of Barrie

Mr. Rowe

<i>1st Reading</i>	May 26th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr45

1987

An Act respecting the City of Barrie

Whereas The Corporation of the City of Barrie, herein called the Corporation, hereby represents that as a result of a tornado which passed through the City of Barrie on the 31st day of May, 1985, extensive damage occurred in areas of the City; that the Corporation arranged for sanitary sewers and water mains to be installed to the damaged areas; that the Corporation wishes to recover a portion of the costs of the installation from the owners of land who were not victims of the tornado but who derived a benefit from such installation; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1.—(1) If sanitary sewers or water mains have been installed or constructed,

Conditions for connection of sanitary sewers, water mains

- (a) after the 30th day of May, 1985 at a cost, in whole or in part, to the Corporation or the Public Utilities Commission of the City of Barrie; and
- (b) in, upon, over or under the highways, lands or easements owned by the Corporation in the area set out in the Schedule,

the Corporation or the Public Utilities Commission of the City of Barrie may, in respect of any land whose owner would benefit therefrom, refuse to connect or prohibit the connection or use of the said works until the share of the costs attributable to such land, as assessed by the Corporation, has been paid to the Corporation or the Public Utilities Commission of the City of Barrie.

(2) The costs of a work under subsection (1) may include interest calculated from the date of completion at a rate not to exceed the highest prime rate quoted on the day that the work was completed.

Interest may be charged

Definition	(3) In subsection (2), "prime rate" means the lowest rate of interest quoted by a chartered bank, named in Schedule A to the <i>Bank Act</i> (Canada), to its most credit-worthy borrowers for prime business loans.
1980-81, c. 40 (Can.)	
Restriction	(4) A by-law passed by the council of the Corporation prior to the coming into force of this Act under section 219 of the <i>Municipal Act</i> or a predecessor thereof does not apply to the owner of a building on land against which a share of the costs has been assessed under subsection (1).
R.S.O. 1980, c. 302	
Commence- ment	2. This Act comes into force on the day it receives Royal Assent.
Short title	3. The short title of this Act is the <i>City of Barrie Act, 1987</i> .

SCHEDULE

SANITARY SEWERS

Patterson Road

From Morrow Road, a distance of approximately 385 metres south and terminating at approximately the middle of the lot known as 152 Patterson Road.

Patterson Place

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Crawford Street

From Patterson Place, a distance of approximately 125 metres south and terminating in front of the north end of house number 258.

WATER MAINS

Patterson Road

From Morrow Road to Ardagh Road, a distance of approximately 775 metres, terminating on the northside of Ardagh Road.

Patterson Place

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Crawford Street

From Alva Street to Ardagh Road, a distance of approximately 830 metres, terminating on the north side of Ardagh Road.

Ardagh Road

From Patterson Road to Crawford Street, a distance of approximately 150 metres.

Bill Pr51

An Act respecting the City of London

Mrs. Smith

1st Reading May 5th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to give The Corporation of the City of London certain powers in relation to the reduction or elimination of hazards created by methane gas on any property in the City.

SECTION 2. This section authorizes the City to enter into agreements respecting abatement measures considered necessary to reduce or eliminate hazards from methane gas. This agreement may be registered against the land.

SECTION 3. This section authorizes the City to appoint officers and sets out their powers.

SECTIONS 4, 5 and 6. These sections set out the conditions under which an abatement order or supplementary abatement order may be made by an officer and the contents of such order.

SECTION 7. This section permits council, or a committee thereof, to receive submissions in respect of a proposed abatement order and allows council to confirm, vary or cancel the order.

SECTION 8. This section permits an appeal to the District Court from a decision of council.

SECTION 9. This section sets out the circumstances wherein an abatement order is held in abeyance.

SECTION 10. An abatement order may be registered against land.

SECTIONS 11, 12 and 13. These sections authorize the City to make by-laws providing for loans or grants to pay for the actions or safeguards required by an abatement agreement or order.

SECTION 14. If an abatement agreement or order is not complied with, the City is empowered to take any action specified in the abatement agreement or order at the expense of the owner or occupier.

SECTION 15. This section is self-explanatory.

SECTION 16. Where an officer or other authorized person is prevented from performing the duties authorized by the Act, application may be made for a warrant directed to the sheriff.

SECTIONS 17 and 18. These sections deal with the service of documents.

SECTION 19. This section sets out the conditions under which an officer, agent or employee of the City is immune from any action for damages.

SECTION 20. An offence is created for contravention of an abatement order.

SECTIONS 21 and 22. These provisions permit the court to prohibit the continuation of a breach of an agreement or the contravention of an abatement order.

Bill Pr51

1987

An Act respecting the City of London

Whereas The Corporation of the City of London, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“abatement agreement” means an agreement made under subsection 2 (1);

“abatement order” means an order made under subsection 4 (1);

“city clerk” means the clerk of the Corporation;

“council” means the council of the Corporation;

“land” means real property;

“officer” means an officer appointed under subsection 3 (1);

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) The Corporation and the owner of any land within the City of London may enter into an agreement respecting abatement measures to reduce or eliminate the hazard from methane gas in or upon the land.

Abatement agreement

(2) An abatement agreement entered into under subsection (1) may be registered against the land to which it applies.

Registration of agreement

(3) A registered abatement agreement shall be deemed to be a covenant running with the land and, subject to the *Land Titles Act* and the *Registry Act*, the Corporation may

Registered agreement to run with land
R.S.O. 1980,
cc. 230, 445

enforce the provisions thereof against the owner and any person acquiring any interest in the land subsequent to the registration thereof.

Amendment
of agreement

(4) The Corporation and the owner of land to which an abatement agreement applies, whether or not the abatement agreement is registered against the land, may amend the abatement agreement by one or more supplementary agreements and this Act applies with necessary modifications to supplementary agreements.

Discharge
of agreement

(5) The Corporation may discharge or release an abatement agreement and, where the abatement agreement is registered, the city clerk shall register a certificate of its discharge.

Appointment
of officer

3.—(1) The council may by by-law appoint an officer of the Corporation, identified in the by-law either by name or position, for the purposes of this Act.

Inspection

(2) Subject to subsection (3), an officer and any person acting under the instruction of an officer may, at all reasonable times and upon producing proper identification, enter and inspect any land for a hazard from methane gas.

Entry into
dwelling
house

(3) Except under the authority of a warrant issued under section 16, an officer or any person acting under the instructions of an officer shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a warrant.

Abatement
order

4.—(1) Subject to subsection (2), an officer may make an order respecting abatement measures where the officer is of the opinion, upon reasonable and probable grounds,

- (a) that a hazard from methane gas exists in or upon any land; and
- (b) that the actions specified in the order are necessary in order to reduce or eliminate the hazard from methane gas in or upon the land.

Condition
precedent to
order

(2) An officer who proposes to make an abatement order shall serve notice of the proposed abatement order, together with written reasons therefor, in the manner specified in subsection (4), and shall not make the abatement order until fifteen days after the service of the notice.

(3) The person to whom the officer proposes to direct the abatement order may make submissions to the officer at any time before the abatement order is made.

Submissions
to municipal
officer

(4) An abatement order shall be directed to and served upon the owner of the property and, if the land is not occupied by the owner, the abatement order may, in the discretion of the officer, be directed to and served upon the occupier or upon the person who has the care or management of the land.

Service of
abatement
order

(5) An abatement order,

Contents of
order

(a) may require the installation and proper maintenance of such safeguards as the officer considers appropriate, including but not limited to, gas ventilators, gas detectors, and alarm or other warning devices;

(b) may require the vacating of the property or a specified part of the property until the safeguards are installed and operating properly;

(c) may specify the time when or the period of time within which the person to whom the abatement order is directed must comply with the abatement order;

(d) shall include written reasons for the abatement order; and

(e) shall inform the person to whom it is directed that the person is entitled to make oral or written submissions to council, or a committee thereof, if written notice of the intention to make submissions is mailed or delivered to the officer and the city clerk within fifteen days after the abatement order is served on such person.

(6) The abatement order shall be deemed to have been confirmed upon the expiration of the fifteenth day following service of the abatement order unless notice has been given under clause (5) (e).

Order
deemed
confirmed

5.—(1) An officer may by supplementary order amend, cancel or reconfirm an abatement order and this Act applies with necessary modifications to a supplementary order.

Supple-
mentary
order

(2) Subsections 4 (2) and (3) do not apply,

Idem

- (a) if the officer proposes to make a supplementary order cancelling an abatement order; or
- (b) if the officer proposes to make a supplementary order amending or reconfirming an abatement order and the person to whom the abatement order was directed consents to the supplementary order.

Request to amend or cancel abatement order

6. The owner, occupier or the person who has the care and management of land to which an abatement order applies may serve the officer with a written request, together with reasons therefor, to amend or cancel the abatement order and, if the officer fails to make a supplementary order within thirty days after the service of the request, the officer shall be deemed to have refused the request and to have made a supplementary order reconfirming the abatement order.

Authority of council

7.—(1) If a person gives notice in writing under clause 4 (5) (e), the council shall afford such person an opportunity to make oral and written submissions to the council and council may by resolution confirm, vary or cancel the whole or any part of the abatement order.

Authority of committee

(2) As an alternative to the requirement set out in subsection (1), the council may provide by by-law for a committee of the council to receive oral and written submissions from a person to whom an abatement order is directed and, upon receiving the submissions, the committee shall, as soon as practicable, make a written report to the council and council, after considering the report, may by resolution confirm, vary or cancel the whole or any part of the abatement order.

Further submissions

(3) The council may require the committee to receive further oral and written submissions on the whole or any part of the abatement order before the council decides to confirm, vary or cancel the abatement order.

Proceeding in the absence of submissions

(4) If a person gives notice in writing under clause 4 (5) (e) but does not make any submissions when afforded an opportunity to do so, the council and its committee may proceed under this Act in the absence of submissions by that person.

Service of council's decision

(5) A decision of council confirming, varying or cancelling the abatement order shall be directed to and served upon the owner of the property and, if the land is not occupied by the owner, may, in the discretion of council, be directed to and served upon the occupier or upon the person who has the care or management of the land.

8.—(1) A person who has given notice in writing under clause 4 (5) (e) may appeal the decision of council to the District Court within fifteen days from the service of the decision of council on that person.

Appeal to court

(2) An appeal under subsection (1) may be made on questions of law or fact or both and,

Powers of court on appeal

(a) the court may confirm, vary or revoke the decision of the council; or

(b) the court may refer the matter back to council with such directions as the court considers proper.

(3) A decision of the council made upon a reference under clause (2) (b) is not subject to appeal and is not subject to clause 9 (c).

When decision of council not subject to appeal

9. The operation of an abatement order is stayed and is not binding upon the person to whom it is directed,

When abatement order operative and binding

(a) until the expiration of the fifteenth day following service of the abatement order on such person where the abatement order is deemed to have been confirmed under subsection 4 (6);

(b) until the expiration of the fifteenth day following service of the decision of the council on such person where the abatement order is confirmed or varied in whole or in part by the council under subsection 7 (1) or 7 (2) and where no appeal to the District Court is made within the intervening period under subsection 8 (1);

(c) until the judgment of the District Court where the abatement order is confirmed or varied by the court on appeal; or

(d) until the service upon such person of a decision of the council made upon a reference under clause 8 (2) (b).

10.—(1) An abatement order, as deemed to have been confirmed under subsection 4 (6), as confirmed or varied by the council under subsection 7 (1) or 7 (2) or, as confirmed or varied by the court under clause 8 (2) (a), may be registered against the land to which it applies.

Registration of abatement order

(2) A registered abatement order shall be deemed to be a covenant running with the land and, subject to the *Land Titles*

Registered abatement order to run with land
R.S.O. 1980,
cc. 230, 445

Act and the *Registry Act*, the Corporation may enforce the provisions thereof against the owner and any person acquiring any interest in the land subsequent to the registration thereof.

Discharge of
abatement
order

(3) Where an abatement order is registered and the requirements of the abatement order are satisfied, the city clerk shall register a certificate of its discharge.

By-laws re:
grants or
loans for
safeguards

11.—(1) The council may pass by-laws for providing for the making of grants or loans to the owner of land to which an abatement agreement or abatement order applies to pay for the whole or any part of the cost of any actions or safeguards specified or required in the abatement agreement or abatement order.

Content of
by-law

(2) A by-law passed under subsection (1) may,

- (a) determine the rate of interest on any loans and the repayment thereof;
- (b) fix the period over which the loans shall be repaid to the Corporation; and
- (c) prescribe such terms and conditions to the making of the grants or loans as the council considers appropriate.

Lien on land

12.—(1) A certificate signed by the city clerk setting out the amount loaned to any owner under a by-law passed under section 11 and any relevant provision relating thereto, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered against the land and thereupon the amount and interest shall be a lien or charge upon the land.

Discharge
of lien or
charge

(2) Upon repayment in full to the Corporation of the amount loaned and interest thereon, a certificate signed by the city clerk showing the repayment shall be registered against the land and thereupon the lien or charge is discharged.

Loans
collected as
taxes

13. The unpaid amount of any loan made under a by-law passed under section 11 and any accrued and unpaid interest may be added by the city clerk to the collector's roll and collected in like manner as municipal taxes over a period fixed by council.

Power of
Corporation
to do work

14.—(1) If the council is of the opinion that an abatement agreement or abatement order is not being complied with or is

not likely to be complied with promptly, the Corporation, in addition to all other remedies,

- (a) has the right to take any action specified in the abatement agreement or abatement order and for this purpose to enter in and upon the land from time to time with its employees and agents; and
- (b) is not liable to compensate the owner, occupant, any person to whom the abatement order is directed or any person having an interest in the land by reason of anything done by or on behalf of the Corporation under this subsection.

(2) The amount of the expenses incurred by the Corporation under subsection (1), Recovery of expenses

- (a) may be recovered from the owner or the occupant, or both, of the land, with costs, by the Corporation in a court of competent jurisdiction; or
- (b) if not paid within sixty days after a demand to the owner or occupant for payment, may be entered by the city clerk in the collector's roll and collected in the same manner as municipal taxes.

(3) Where the amount of the expenses is entered in the collector's roll under clause (2) (b), a certificate signed by the city clerk setting out the amount together with a description of the land to which the expenses relate, sufficient for registration, shall be registered against the land and thereupon the amount and interest thereon shall be a lien or charge upon the land. Lien on land

(4) Upon payment in full to the Corporation of the amount and interest thereon, a certificate of the city clerk showing the payment shall similarly be registered against the land and thereupon the lien or charge is discharged. Discharge of lien or charge

(5) Where an amount recovered by the Corporation under this section from an occupier of land is, between the occupier and the owner of the land, the responsibility of the owner, the occupier is entitled to recover the amount from any other amount due from the occupier to the owner. Recovery by occupier

(6) Where an amount recovered by the Corporation under this section from an owner of land is, between the owner and the occupier of the land, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or Recovery by owner

to add the amount to any other amount due from the occupier to the owner.

Deleting
registrations

15. Where an instrument has been registered,

- (a) discharging an abatement agreement under subsection 2 (5);
- (b) discharging an abatement order under subsection 10 (3);
- (c) discharging a lien or charge in respect of a loan under subsection 12 (2); or
- (d) discharging a lien in respect of expenses under subsection 14 (4),

the land described in the discharging instrument is not affected by the discharged instrument and the land registrar may delete the entry of the discharge instrument in the abstract index or register of the land described.

Issue of
warrant

16. Where refusal or resistance is made or is likely to be made,

- (a) to an officer, or any person acting upon the instructions of an officer, in respect of an entry and inspection; or
- (b) to an agent or employee of the Corporation who is taking any action specified in an abatement agreement or abatement order,

application may be made to a justice of the peace for a warrant under this Act with or without notice to and in the presence or absence of the owner or person to whom an abatement order is directed, and the justice of the peace may issue a warrant directing the sheriff or any other person whom the justice of the peace considers suitable to put down the refusal or resistance to entry or to taking any action specified in the abatement agreement or abatement order.

Service

17.—(1) Any notice, order, resolution or other document required to be given or served under this Act is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address appearing on the records of the Corporation.

(2) Service by registered mail shall be deemed to be made on the fifth day after the day of mailing. Idem

(3) If service cannot be effected under subsection (1), the notice, order, resolution or other document may be posted in a conspicuous place on the land affected by the order and by so posting the notice, order, resolution or other document is sufficiently given or served. Substituted service

18. A time prescribed by this Act for serving, delivering or giving any document, notice, order, reasons, decision, request, submission, resolution or by-law may be extended before or after the expiration of the time prescribed or may be abridged, Extension or abridgement of prescribed time

(a) by consent in writing; or

(b) by an order of the District Court obtained on motion.

19.—(1) No action or other proceedings for damages or otherwise lies or shall be instituted against an officer or any person acting under the instructions of an officer or against an employee or agent of the Corporation for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Immunity from actions

(2) Subsection (1) does not relieve the Corporation of liability in respect of a tort committed by an officer or any person acting under the instructions of an officer or by an employee or agent of the Corporation to which the Corporation would otherwise be subject and the Corporation is liable for any such tort as if subsection (1) were not enacted. Corporation not relieved of liability

20. Every person who fails to comply with a provision of an abatement order is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for every day such offence occurs or continues. Offence

21. Where an abatement order is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed under section 20, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. Power to restrain by order when conviction entered

22. Where an abatement agreement is breached or an abatement order is contravened, in addition to any other rem- Power to restrain by action

edy and to any penalty imposed under section 20, such contravention may be restrained by action at the instance of the Corporation.

Commence-
ment

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

Short title

24. The short title of this Act is the *City of London Act, 1987*.

Bill Pr51

An Act respecting the City of London

Mrs. Smith

1st Reading May 5th, 1987

2nd Reading

3rd Reading

Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTES

The purpose of the Bill is to give The Corporation of the City of London certain powers in relation to the reduction or elimination of hazards created by methane gas on any property in the City.

SECTION 2. This section authorizes the City to enter into agreements respecting abatement measures considered necessary to reduce or eliminate hazards from methane gas. This agreement may be registered against the land.

SECTION 3. This section authorizes the City to appoint officers and sets out their powers.

SECTIONS 4, 5 and 6. These sections set out the conditions under which an abatement order or supplementary abatement order may be made by an officer and the contents of such order.

SECTION 7. This section permits council, or a committee thereof, to receive submissions in respect of a proposed abatement order and allows council to confirm, vary or cancel the order.

SECTION 8. This section permits an appeal to the District Court from a decision of council.

SECTION 9. This section sets out the circumstances wherein an abatement order is held in abeyance.

SECTION 10. An abatement order may be registered against land.

SECTIONS 11, 12 and 13. These sections authorize the City to make by-laws providing for loans or grants to pay for the actions or safeguards required by an abatement agreement or order.

SECTION 14. If an abatement agreement or order is not complied with, the City is empowered to take any action specified in the abatement agreement or order at the expense of the owner or occupier.

SECTION 15. This section is self-explanatory.

SECTION 16. Where an officer or other authorized person is prevented from performing the duties authorized by the Act, application may be made for a warrant directed to the sheriff.

SECTIONS 17 and 18. These sections deal with the service of documents.

SECTION 19. This section sets out the conditions under which an officer, agent or employee of the City is immune from any action for damages.

SECTION 20. An offence is created for contravention of an abatement order.

SECTIONS 21 and 22. These provisions permit the court to prohibit the continuation of a breach of an agreement or the contravention of an abatement order.

Bill Pr51

1987

An Act respecting the City of London

Whereas The Corporation of the City of London, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“abatement agreement” means an agreement made under subsection 2 (1);

“abatement order” means an order made under subsection 4 (1);

“city clerk” means the clerk of the Corporation;

“council” means the council of the Corporation;

“land” means real property;

“officer” means an officer appointed under subsection 3 (1);

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) The Corporation and the owner of any land within the City of London may enter into an agreement respecting abatement measures to reduce or eliminate the hazard from methane gas in or upon the land.

Abatement agreement

(2) An abatement agreement entered into under subsection (1) may be registered against the land to which it applies.

Registration of agreement

(3) A registered abatement agreement shall be deemed to be a covenant running with the land and, subject to the *Land Titles Act* and the *Registry Act*, the Corporation may

Registered agreement to run with land
R.S.O. 1980,
cc. 230, 445

enforce the provisions thereof against the owner and any person acquiring any interest in the land subsequent to the registration thereof.

Amendment
of agreement

(4) The Corporation and the owner of land to which an abatement agreement applies, whether or not the abatement agreement is registered against the land, may amend the abatement agreement by one or more supplementary agreements and this Act applies with necessary modifications to supplementary agreements.

Discharge
of agreement

(5) The Corporation may discharge or release an abatement agreement and, where the abatement agreement is registered, the city clerk shall register a certificate of its discharge.

Appointment
of officer

3.—(1) The council may by by-law appoint an officer of the Corporation, identified in the by-law either by name or position, for the purposes of this Act.

Inspection

(2) Subject to subsection (3), an officer and any person acting under the instruction of an officer may, at all reasonable times and upon producing proper identification, enter and inspect any land for a hazard from methane gas.

Entry into
dwelling
house

(3) Except under the authority of a warrant issued under section 16, an officer or any person acting under the instructions of an officer shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a warrant.

Abatement
order

4.—(1) Subject to subsection (2), an officer may make an order respecting abatement measures where the officer is of the opinion, upon reasonable and probable grounds,

- (a) that a hazard from methane gas exists in or upon any land; and
- (b) that the actions specified in the order are necessary in order to reduce or eliminate the hazard from methane gas in or upon the land.

Condition
precedent to
order

(2) An officer who proposes to make an abatement order shall serve notice of the proposed abatement order, together with written reasons therefor, in the manner specified in subsection (4), and shall not make the abatement order until fifteen days after the service of the notice.

(3) The person to whom the officer proposes to direct the abatement order may make submissions to the officer at any time before the abatement order is made.

Submissions
to municipal
officer

(4) An abatement order shall be directed to and served upon the owner of the property and, if the land is not occupied by the owner, the abatement order may, in the discretion of the officer, be directed to and served upon the occupier or upon the person who has the care or management of the land.

Service of
abatement
order

(5) An abatement order,

Contents of
order

- (a) may require the installation and proper maintenance of such safeguards as the officer considers appropriate, including but not limited to, gas ventilators, gas detectors, and alarm or other warning devices;
- (b) may require the vacating of the property or a specified part of the property until the safeguards are installed and operating properly;
- (c) may specify the time when or the period of time within which the person to whom the abatement order is directed must comply with the abatement order;
- (d) shall include written reasons for the abatement order; and
- (e) shall inform the person to whom it is directed that the person is entitled to make oral or written submissions to council, or a committee thereof, if written notice of the intention to make submissions is mailed or delivered to the officer and the city clerk within fifteen days after the abatement order is served on such person.

(6) The abatement order shall be deemed to have been confirmed upon the expiration of the fifteenth day following service of the abatement order unless notice has been given under clause (5) (e).

Order
deemed
confirmed

5.—(1) An officer may by supplementary order amend, cancel or reconfirm an abatement order and this Act applies with necessary modifications to a supplementary order.

Supple-
mentary
order

(2) Subsections 4 (2) and (3) do not apply,

Idem

- (a) if the officer proposes to make a supplementary order cancelling an abatement order; or
- (b) if the officer proposes to make a supplementary order amending or reconfirming an abatement order and the person to whom the abatement order was directed consents to the supplementary order.

Request to amend or cancel abatement order

6. The owner, occupier or the person who has the care and management of land to which an abatement order applies may serve the officer with a written request, together with reasons therefor, to amend or cancel the abatement order and, if the officer fails to make a supplementary order within thirty days after the service of the request, the officer shall be deemed to have refused the request and to have made a supplementary order reconfirming the abatement order.

Authority of council

7.—(1) If a person gives notice in writing under clause 4 (5) (e), the council shall afford such person an opportunity to make oral and written submissions to the council and council may by resolution confirm, vary or cancel the whole or any part of the abatement order.

Authority of committee

(2) As an alternative to the requirement set out in subsection (1), the council may provide by by-law for a committee of the council to receive oral and written submissions from a person to whom an abatement order is directed and, upon receiving the submissions, the committee shall, as soon as practicable, make a written report to the council and council, after considering the report, may by resolution confirm, vary or cancel the whole or any part of the abatement order.

Further submissions

(3) The council may require the committee to receive further oral and written submissions on the whole or any part of the abatement order before the council decides to confirm, vary or cancel the abatement order.

Proceeding in the absence of submissions

(4) If a person gives notice in writing under clause 4 (5) (e) but does not make any submissions when afforded an opportunity to do so, the council and its committee may proceed under this Act in the absence of submissions by that person.

Service of council's decision

(5) A decision of council confirming, varying or cancelling the abatement order shall be directed to and served upon the owner of the property and, if the land is not occupied by the owner, may, in the discretion of council, be directed to and served upon the occupier or upon the person who has the care or management of the land.

8.—(1) A person who has given notice in writing under clause 4 (5) (e) may appeal the decision of council to the District Court within fifteen days from the service of the decision of council on that person.

Appeal to court

(2) An appeal under subsection (1) may be made on questions of law or fact or both and,

Powers of court on appeal

(a) the court may confirm, vary or revoke the decision of the council; or

(b) the court may refer the matter back to council with such directions as the court considers proper.

(3) A decision of the council made upon a reference under clause (2) (b) is not subject to appeal and is not subject to clause 9 (c).

When decision of council not subject to appeal

9. The operation of an abatement order is stayed and is not binding upon the person to whom it is directed,

When abatement order operative and binding

(a) until the expiration of the fifteenth day following service of the abatement order on such person where the abatement order is deemed to have been confirmed under subsection 4 (6);

(b) until the expiration of the fifteenth day following service of the decision of the council on such person where the abatement order is confirmed or varied in whole or in part by the council under subsection 7 (1) or 7 (2) and where no appeal to the District Court is made within the intervening period under subsection 8 (1);

(c) until the judgment of the District Court where the abatement order is confirmed or varied by the court on appeal; or

(d) until the service upon such person of a decision of the council made upon a reference under clause 8 (2) (b).

10.—(1) An abatement order, as deemed to have been confirmed under subsection 4 (6), as confirmed or varied by the council under subsection 7 (1) or 7 (2) or, as confirmed or varied by the court under clause 8 (2) (a), may be registered against the land to which it applies.

Registration of abatement order

(2) A registered abatement order shall be deemed to be a covenant running with the land and, subject to the *Land Titles*

Registered abatement order to run with land
R.S.O. 1980,
cc. 230, 445

Act and the *Registry Act*, the Corporation may enforce the provisions thereof against the owner and any person acquiring any interest in the land subsequent to the registration thereof.

Discharge of
abatement
order

(3) Where an abatement order is registered and the requirements of the abatement order are satisfied, the city clerk shall register a certificate of its discharge.

By-laws re:
grants or
loans for
safeguards
R.S.O. 1980,
c. 302

11.—(1) Notwithstanding section 112 of the *Municipal Act*, the council may pass by-laws for providing for the making of grants or loans to the owner of land to which an abatement agreement or abatement order applies to pay for the whole or any part of the cost of any actions or safeguards specified or required in the abatement agreement or abatement order.

Content of
by-law

(2) A by-law passed under subsection (1) may,

- (a) determine the rate of interest on any loans and the repayment thereof;
- (b) fix the period over which the loans shall be repaid to the Corporation; and
- (c) prescribe such terms and conditions to the making of the grants or loans as the council considers appropriate.

Lien on land

12.—(1) A certificate signed by the city clerk setting out the amount loaned to any owner under a by-law passed under section 11 and any relevant provision relating thereto, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered against the land and thereupon the amount and interest shall be a lien or charge upon the land.

Discharge
of lien or
charge

(2) Upon repayment in full to the Corporation of the amount loaned and interest thereon, a certificate signed by the city clerk showing the repayment shall be registered against the land and thereupon the lien or charge is discharged.

Loans
collected as
taxes

13. The unpaid amount of any loan made under a by-law passed under section 11 and any accrued and unpaid interest may be added by the city clerk to the collector's roll and collected in like manner as municipal taxes over a period fixed by council.

Power of
Corporation
to do work

14.—(1) If the council is of the opinion that an abatement agreement or abatement order is not being complied with or is

not likely to be complied with promptly, the Corporation, in addition to all other remedies,

- (a) has the right to take any action specified in the abatement agreement or abatement order and for this purpose to enter in and upon the land from time to time with its employees and agents; and
- (b) is not liable to compensate the owner, occupant, any person to whom the abatement order is directed or any person having an interest in the land by reason of anything done by or on behalf of the Corporation under this subsection.

(2) The amount of the expenses incurred by the Corporation under subsection (1), Recovery of expenses

- (a) may be recovered from the owner or the occupant, or both, of the land, with costs, by the Corporation in a court of competent jurisdiction; or
- (b) if not paid within sixty days after a demand to the owner or occupant for payment, may be entered by the city clerk in the collector's roll and collected in the same manner as municipal taxes.

(3) Where the amount of the expenses is entered in the collector's roll under clause (2) (b), a certificate signed by the city clerk setting out the amount together with a description of the land to which the expenses relate, sufficient for registration, shall be registered against the land and thereupon the amount and interest thereon shall be a lien or charge upon the land. Lien on land

(4) Upon payment in full to the Corporation of the amount and interest thereon, a certificate of the city clerk showing the payment shall similarly be registered against the land and thereupon the lien or charge is discharged. Discharge of lien or charge

(5) Where an amount recovered by the Corporation under this section from an occupier of land is, between the occupier and the owner of the land, the responsibility of the owner, the occupier is entitled to recover the amount from any other amount due from the occupier to the owner. Recovery by occupier

(6) Where an amount recovered by the Corporation under this section from an owner of land is, between the owner and the occupier of the land, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or Recovery by owner

to add the amount to any other amount due from the occupier to the owner.

Deleting
registrations

15. Where an instrument has been registered,

- (a) discharging an abatement agreement under subsection 2 (5);
- (b) discharging an abatement order under subsection 10 (3);
- (c) discharging a lien or charge in respect of a loan under subsection 12 (2); or
- (d) discharging a lien in respect of expenses under subsection 14 (4),

the land described in the discharging instrument is not affected by the discharged instrument and the land registrar may delete the entry of the discharge instrument in the abstract index or register of the land described.

Issue of
warrant

16. Where refusal or resistance is made or is likely to be made,

- (a) to an officer, or any person acting upon the instructions of an officer, in respect of an entry and inspection; or
- (b) to an agent or employee of the Corporation who is taking any action specified in an abatement agreement or abatement order,

application may be made to a justice of the peace for a warrant under this Act with or without notice to and in the presence or absence of the owner or person to whom an abatement order is directed, and the justice of the peace may issue a warrant directing the sheriff or any other person whom the justice of the peace considers suitable to put down the refusal or resistance to entry or to taking any action specified in the abatement agreement or abatement order.

Service

17.—(1) Any notice, order, resolution or other document required to be given or served under this Act is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address appearing on the records of the Corporation.

(2) Service by registered mail shall be deemed to be made on the fifth day after the day of mailing. Idem

(3) If service cannot be effected under subsection (1), the notice, order, resolution or other document may be posted in a conspicuous place on the land affected by the order and by so posting the notice, order, resolution or other document is sufficiently given or served. Substituted service

18. A time prescribed by this Act for serving, delivering or giving any document, notice, order, reasons, decision, request, submission, resolution or by-law may be extended before or after the expiration of the time prescribed or may be abridged, Extension or abridgement of prescribed time

(a) by consent in writing; or

(b) by an order of the District Court obtained on motion.

19.—(1) No action or other proceedings for damages or otherwise lies or shall be instituted against an officer or any person acting under the instructions of an officer or against an employee or agent of the Corporation for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Immunity from actions

(2) Subsection (1) does not relieve the Corporation of liability in respect of a tort committed by an officer or any person acting under the instructions of an officer or by an employee or agent of the Corporation to which the Corporation would otherwise be subject and the Corporation is liable for any such tort as if subsection (1) were not enacted. Corporation not relieved of liability

20. Every person who fails to comply with a provision of an abatement order is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for every day such offence occurs or continues. Offence

21. Where an abatement order is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed under section 20, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. Power to restrain by order when conviction entered

22. Where an abatement agreement is breached or an abatement order is contravened, in addition to any other rem- Power to restrain by action

edy and to any penalty imposed under section 20, such contravention may be restrained by action at the instance of the Corporation.

Commence-
ment

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

Short title

24. The short title of this Act is the *City of London Act, 1987*.

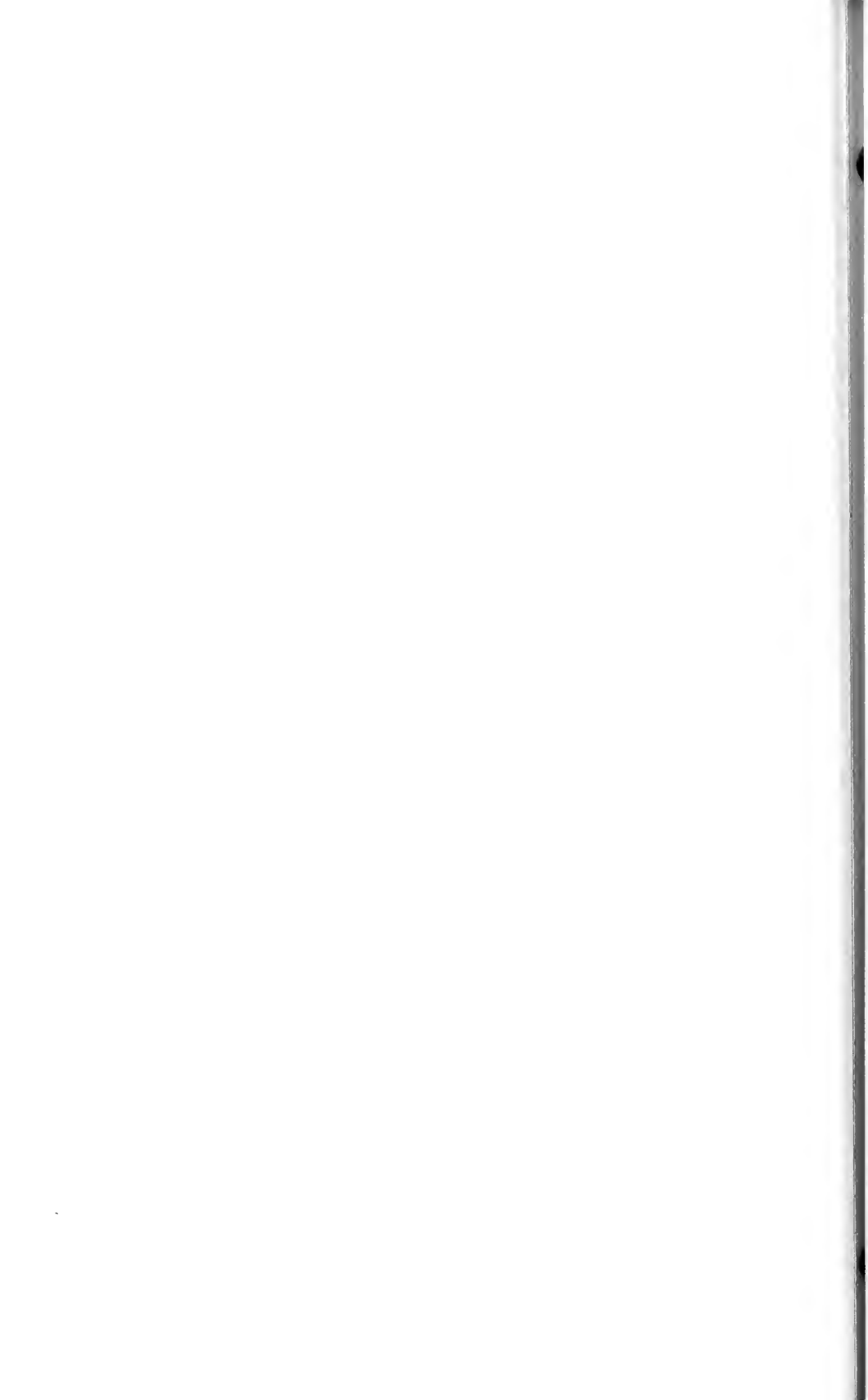
Bill Pr51

*(Chapter Pr18
Statutes of Ontario, 1987)*

An Act respecting the City of London

Mrs. Smith

<i>1st Reading</i>	May 5th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr51

1987

An Act respecting the City of London

Whereas The Corporation of the City of London, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“abatement agreement” means an agreement made under subsection 2 (1);

“abatement order” means an order made under subsection 4 (1);

“city clerk” means the clerk of the Corporation;

“council” means the council of the Corporation;

“land” means real property;

“officer” means an officer appointed under subsection 3 (1);

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) The Corporation and the owner of any land within the City of London may enter into an agreement respecting abatement measures to reduce or eliminate the hazard from methane gas in or upon the land.

Abatement agreement

(2) An abatement agreement entered into under subsection (1) may be registered against the land to which it applies.

Registration of agreement

(3) A registered abatement agreement shall be deemed to be a covenant running with the land and, subject to the *Land Titles Act* and the *Registry Act*, the Corporation may

Registered agreement to run with land
R.S.O. 1980,
cc. 230, 445

enforce the provisions thereof against the owner and any person acquiring any interest in the land subsequent to the registration thereof.

Amendment
of agreement

(4) The Corporation and the owner of land to which an abatement agreement applies, whether or not the abatement agreement is registered against the land, may amend the abatement agreement by one or more supplementary agreements and this Act applies with necessary modifications to supplementary agreements.

Discharge
of agreement

(5) The Corporation may discharge or release an abatement agreement and, where the abatement agreement is registered, the city clerk shall register a certificate of its discharge.

Appointment
of officer

3.—(1) The council may by by-law appoint an officer of the Corporation, identified in the by-law either by name or position, for the purposes of this Act.

Inspection

(2) Subject to subsection (3), an officer and any person acting under the instruction of an officer may, at all reasonable times and upon producing proper identification, enter and inspect any land for a hazard from methane gas.

Entry into
dwelling
house

(3) Except under the authority of a warrant issued under section 16, an officer or any person acting under the instructions of an officer shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a warrant.

Abatement
order

4.—(1) Subject to subsection (2), an officer may make an order respecting abatement measures where the officer is of the opinion, upon reasonable and probable grounds,

- (a) that a hazard from methane gas exists in or upon any land; and
- (b) that the actions specified in the order are necessary in order to reduce or eliminate the hazard from methane gas in or upon the land.

Condition
precedent to
order

(2) An officer who proposes to make an abatement order shall serve notice of the proposed abatement order, together with written reasons therefor, in the manner specified in subsection (4), and shall not make the abatement order until fifteen days after the service of the notice.

(3) The person to whom the officer proposes to direct the abatement order may make submissions to the officer at any time before the abatement order is made.

Submissions
to municipal
officer

(4) An abatement order shall be directed to and served upon the owner of the property and, if the land is not occupied by the owner, the abatement order may, in the discretion of the officer, be directed to and served upon the occupier or upon the person who has the care or management of the land.

Service of
abatement
order

(5) An abatement order,

Contents of
order

(a) may require the installation and proper maintenance of such safeguards as the officer considers appropriate, including but not limited to, gas ventilators, gas detectors, and alarm or other warning devices;

(b) may require the vacating of the property or a specified part of the property until the safeguards are installed and operating properly;

(c) may specify the time when or the period of time within which the person to whom the abatement order is directed must comply with the abatement order;

(d) shall include written reasons for the abatement order; and

(e) shall inform the person to whom it is directed that the person is entitled to make oral or written submissions to council, or a committee thereof, if written notice of the intention to make submissions is mailed or delivered to the officer and the city clerk within fifteen days after the abatement order is served on such person.

(6) The abatement order shall be deemed to have been confirmed upon the expiration of the fifteenth day following service of the abatement order unless notice has been given under clause (5) (e).

Order
deemed
confirmed

5.—(1) An officer may by supplementary order amend, cancel or reconfirm an abatement order and this Act applies with necessary modifications to a supplementary order.

Supple-
mentary
order

(2) Subsections 4 (2) and (3) do not apply,

Idem

- (a) if the officer proposes to make a supplementary order cancelling an abatement order; or
- (b) if the officer proposes to make a supplementary order amending or reconfirming an abatement order and the person to whom the abatement order was directed consents to the supplementary order.

Request to amend or cancel abatement order

6. The owner, occupier or the person who has the care and management of land to which an abatement order applies may serve the officer with a written request, together with reasons therefor, to amend or cancel the abatement order and, if the officer fails to make a supplementary order within thirty days after the service of the request, the officer shall be deemed to have refused the request and to have made a supplementary order reconfirming the abatement order.

Authority of council

7.—(1) If a person gives notice in writing under clause 4 (5) (e), the council shall afford such person an opportunity to make oral and written submissions to the council and council may by resolution confirm, vary or cancel the whole or any part of the abatement order.

Authority of committee

(2) As an alternative to the requirement set out in subsection (1), the council may provide by by-law for a committee of the council to receive oral and written submissions from a person to whom an abatement order is directed and, upon receiving the submissions, the committee shall, as soon as practicable, make a written report to the council and council, after considering the report, may by resolution confirm, vary or cancel the whole or any part of the abatement order.

Further submissions

(3) The council may require the committee to receive further oral and written submissions on the whole or any part of the abatement order before the council decides to confirm, vary or cancel the abatement order.

Proceeding in the absence of submissions

(4) If a person gives notice in writing under clause 4 (5) (e) but does not make any submissions when afforded an opportunity to do so, the council and its committee may proceed under this Act in the absence of submissions by that person.

Service of council's decision

(5) A decision of council confirming, varying or cancelling the abatement order shall be directed to and served upon the owner of the property and, if the land is not occupied by the owner, may, in the discretion of council, be directed to and served upon the occupier or upon the person who has the care or management of the land.

8.—(1) A person who has given notice in writing under clause 4 (5) (e) may appeal the decision of council to the District Court within fifteen days from the service of the decision of council on that person.

Appeal to court

(2) An appeal under subsection (1) may be made on questions of law or fact or both and,

Powers of court on appeal

(a) the court may confirm, vary or revoke the decision of the council; or

(b) the court may refer the matter back to council with such directions as the court considers proper.

(3) A decision of the council made upon a reference under clause (2) (b) is not subject to appeal and is not subject to clause 9 (c).

When decision of council not subject to appeal

9. The operation of an abatement order is stayed and is not binding upon the person to whom it is directed,

When abatement order operative and binding

(a) until the expiration of the fifteenth day following service of the abatement order on such person where the abatement order is deemed to have been confirmed under subsection 4 (6);

(b) until the expiration of the fifteenth day following service of the decision of the council on such person where the abatement order is confirmed or varied in whole or in part by the council under subsection 7 (1) or 7 (2) and where no appeal to the District Court is made within the intervening period under subsection 8 (1);

(c) until the judgment of the District Court where the abatement order is confirmed or varied by the court on appeal; or

(d) until the service upon such person of a decision of the council made upon a reference under clause 8 (2) (b).

10.—(1) An abatement order, as deemed to have been confirmed under subsection 4 (6), as confirmed or varied by the council under subsection 7 (1) or 7 (2) or, as confirmed or varied by the court under clause 8 (2) (a), may be registered against the land to which it applies.

Registration of abatement order

(2) A registered abatement order shall be deemed to be a covenant running with the land and, subject to the *Land Titles*

Registered abatement order to run with land
R.S.O. 1980,
cc. 230, 445

Act and the *Registry Act*, the Corporation may enforce the provisions thereof against the owner and any person acquiring any interest in the land subsequent to the registration thereof.

Discharge of
abatement
order

(3) Where an abatement order is registered and the requirements of the abatement order are satisfied, the city clerk shall register a certificate of its discharge.

By-laws re:
grants or
loans for
safeguards
R.S.O. 1980,
c. 302

11.—(1) Notwithstanding section 112 of the *Municipal Act*, the council may pass by-laws for providing for the making of grants or loans to the owner of land to which an abatement agreement or abatement order applies to pay for the whole or any part of the cost of any actions or safeguards specified or required in the abatement agreement or abatement order.

Content of
by-law

(2) A by-law passed under subsection (1) may,

- (a) determine the rate of interest on any loans and the repayment thereof;
- (b) fix the period over which the loans shall be repaid to the Corporation; and
- (c) prescribe such terms and conditions to the making of the grants or loans as the council considers appropriate.

Lien on land

12.—(1) A certificate signed by the city clerk setting out the amount loaned to any owner under a by-law passed under section 11 and any relevant provision relating thereto, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered against the land and thereupon the amount and interest shall be a lien or charge upon the land.

Discharge
of lien or
charge

(2) Upon repayment in full to the Corporation of the amount loaned and interest thereon, a certificate signed by the city clerk showing the repayment shall be registered against the land and thereupon the lien or charge is discharged.

Loans
collected as
taxes

13. The unpaid amount of any loan made under a by-law passed under section 11 and any accrued and unpaid interest may be added by the city clerk to the collector's roll and collected in like manner as municipal taxes over a period fixed by council.

Power of
Corporation
to do work

14.—(1) If the council is of the opinion that an abatement agreement or abatement order is not being complied with or is

not likely to be complied with promptly, the Corporation, in addition to all other remedies,

- (a) has the right to take any action specified in the abatement agreement or abatement order and for this purpose to enter in and upon the land from time to time with its employees and agents; and
- (b) is not liable to compensate the owner, occupant, any person to whom the abatement order is directed or any person having an interest in the land by reason of anything done by or on behalf of the Corporation under this subsection.

(2) The amount of the expenses incurred by the Corporation under subsection (1), Recovery of expenses

- (a) may be recovered from the owner or the occupant, or both, of the land, with costs, by the Corporation in a court of competent jurisdiction; or
- (b) if not paid within sixty days after a demand to the owner or occupant for payment, may be entered by the city clerk in the collector's roll and collected in the same manner as municipal taxes.

(3) Where the amount of the expenses is entered in the collector's roll under clause (2) (b), a certificate signed by the city clerk setting out the amount together with a description of the land to which the expenses relate, sufficient for registration, shall be registered against the land and thereupon the amount and interest thereon shall be a lien or charge upon the land. Lien on land

(4) Upon payment in full to the Corporation of the amount and interest thereon, a certificate of the city clerk showing the payment shall similarly be registered against the land and thereupon the lien or charge is discharged. Discharge of lien or charge

(5) Where an amount recovered by the Corporation under this section from an occupier of land is, between the occupier and the owner of the land, the responsibility of the owner, the occupier is entitled to recover the amount from any other amount due from the occupier to the owner. Recovery by occupier

(6) Where an amount recovered by the Corporation under this section from an owner of land is, between the owner and the occupier of the land, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or Recovery by owner

to add the amount to any other amount due from the occupier to the owner.

Deleting
registrations

15. Where an instrument has been registered,

- (a) discharging an abatement agreement under subsection 2 (5);
- (b) discharging an abatement order under subsection 10 (3);
- (c) discharging a lien or charge in respect of a loan under subsection 12 (2); or
- (d) discharging a lien in respect of expenses under subsection 14 (4),

the land described in the discharging instrument is not affected by the discharged instrument and the land registrar may delete the entry of the discharge instrument in the abstract index or register of the land described.

Issue of
warrant

16. Where refusal or resistance is made or is likely to be made,

- (a) to an officer, or any person acting upon the instructions of an officer, in respect of an entry and inspection; or
- (b) to an agent or employee of the Corporation who is taking any action specified in an abatement agreement or abatement order,

application may be made to a justice of the peace for a warrant under this Act with or without notice to and in the presence or absence of the owner or person to whom an abatement order is directed, and the justice of the peace may issue a warrant directing the sheriff or any other person whom the justice of the peace considers suitable to put down the refusal or resistance to entry or to taking any action specified in the abatement agreement or abatement order.

Service

17.—(1) Any notice, order, resolution or other document required to be given or served under this Act is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address appearing on the records of the Corporation.

(2) Service by registered mail shall be deemed to be made on the fifth day after the day of mailing. Idem

(3) If service cannot be effected under subsection (1), the notice, order, resolution or other document may be posted in a conspicuous place on the land affected by the order and by so posting the notice, order, resolution or other document is sufficiently given or served. Substituted service

18. A time prescribed by this Act for serving, delivering or giving any document, notice, order, reasons, decision, request, submission, resolution or by-law may be extended before or after the expiration of the time prescribed or may be abridged, Extension or abridgement of prescribed time

(a) by consent in writing; or

(b) by an order of the District Court obtained on motion.

19.—(1) No action or other proceedings for damages or otherwise lies or shall be instituted against an officer or any person acting under the instructions of an officer or against an employee or agent of the Corporation for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Immunity from actions

(2) Subsection (1) does not relieve the Corporation of liability in respect of a tort committed by an officer or any person acting under the instructions of an officer or by an employee or agent of the Corporation to which the Corporation would otherwise be subject and the Corporation is liable for any such tort as if subsection (1) were not enacted. Corporation not relieved of liability

20. Every person who fails to comply with a provision of an abatement order is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for every day such offence occurs or continues. Offence

21. Where an abatement order is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed under section 20, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. Power to restrain by order when conviction entered

22. Where an abatement agreement is breached or an abatement order is contravened, in addition to any other rem- Power to restrain by action

edy and to any penalty imposed under section 20, such contravention may be restrained by action at the instance of the Corporation.

Commence-
ment

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

Short title

24. The short title of this Act is the *City of London Act, 1987*.

Bill Pr54

An Act to revive the Toronto Ski Club

Mr. Timbrell

1st Reading October 16th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr54

1987

An Act to revive the Toronto Ski Club

Whereas Eric Button and David Kinnear hereby represent that the Toronto Ski Club, herein called the Corporation, was incorporated by letters patent dated the 20th day of October, 1924, as a corporation without share capital; that the Minister of Consumer and Commercial Relations by order dated the 8th day of September, 1982, and made under the authority of subsection 317 (9) of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, cancelled the letters patent of the Corporation for default in complying with section 5 of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, and declared the Corporation to be dissolved on the 8th day of September, 1982; that the applicants were members, directors and officers of the Corporation at the time of its dissolution and are members and officers of the on-going organization carried on in the name of the Corporation since its dissolution; that the notice of default and the notice of dissolution issued on behalf of the Minister were not received by the Corporation or any of its officers and directors; that the default and failure to comply occurred by reason of inadvertence; that the applicants were not aware of the dissolution of the Corporation until more than two years after the date thereof; that at the time of dissolution the Corporation held certain real and personal property on behalf of its members; and whereas the applicants hereby apply for special legislation reviving the Corporation; and whereas it is expedient to grant the application;

Preamble

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

1. The Toronto Ski Club is hereby revived and is, subject to any rights acquired by any person after its dissolution, hereby restored to its legal position as a corporation, including all its property, rights, privileges and franchises, and subject to all its liabilities, contracts, disabilities, and debts as of the date of its dissolution in the same manner and to the same extent as if it had not been dissolved.

Corporation
revived

Corporation
substituted
for Public
Trustee
1982, c. 4

2. The Toronto Ski Club is substituted in place of the Public Trustee in respect of any action or proceeding taken by the Public Trustee under section 184 of the *Business Corporations Act, 1982* in respect of the assets of the dissolved Corporation.

Public
Trustee
to be
indemnified
1982, c. 4

3. The Toronto Ski Club shall indemnify the Public Trustee for all costs, liabilities and obligations incurred by the Public Trustee as a result of any action taken by the Public Trustee under section 184 of the *Business Corporations Act, 1982* in respect of the assets of the dissolved Corporation.

Commence-
ment

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

Short title

5. The short title of this Act is the *Toronto Ski Club Act, 1987*.

Bill Pr56

An Act respecting the City of Toronto

Mr. Offer

1st Reading June 2nd, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. This section permits the City to lease for parking purposes, free from restrictions contained in the 1903 legislation, certain lands which it owns on Fleet Street.

SECTION 2. This section would permit the City to stand in the place of the Board of Health and the Board of Health would be dissolved.

SECTION 3. This section has the effect of re-enacting section 5 of *The City of Toronto Act, 1975 (No. 2)*, being chapter 117, as amended. Changes are made to the definition of "social housing" and to the powers of council in dealing with by-laws pertaining to social housing, residential densities for social housing and agreements pertaining to social housing.

SECTION 4. The purpose of this section is to permit by-laws designating bus parking areas on highways, to regulate the use of and times of operation of the areas so designated and to prohibit any vehicle other than a bus from parking, stopping or standing within such designated area.

SECTION 5. This provision has the effect of re-enacting section 3 of *The City of Toronto Act, 1960-61*, being chapter 137, as amended, respecting permit parking. The only substantive change is found in clause 5 (1) (e) which allows a vehicle that has a permit to park without using a parking meter or other parking device.

SECTION 6. The purpose of this section is to give council the authority to deal with vacant buildings which pose fire and safety problems.

Bill Pr56

1987

An Act respecting the City of Toronto

Whereas The Corporation of the City of Toronto, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. Notwithstanding subsection 10 (6) of *An Act respecting The City of Toronto*, being chapter 86 of the Statutes of Ontario, 1903, the Corporation may lease to any person for parking purposes, on such terms and conditions as may be agreed upon, any part of the lands in the Ordnance Reserve Plan bounded on the north by the Frederick C. Gardiner Expressway lands, on the south by Fleet Street, on the west by Strachan Avenue, and on the east by the west limit of Garrison Road, until such time as the lands are required by the Commissioner of Parks and Recreation of the Corporation for parks purposes.

Power of council to lease land for parking purposes

2.—(1) The Board of Health for the City of Toronto Health Unit is dissolved and the assets and liabilities of the Board become assets and liabilities of the Corporation without compensation and the Corporation shall stand in the place and stead of the Board of Health for the City of Toronto Health Unit for the purposes of any agreements entered into, orders made, or matters commenced by that Board, and for the purposes of any proceedings which have been or may be instituted against that Board.

Board of Health dissolved

(2) For purposes of the *Health Protection and Promotion Act, 1983* and any other Act, the Corporation shall be deemed to be a board of health established under the *Health Protection and Promotion Act, 1983*.

Corporation deemed to be board of health
1983, c. 10

(3) The Corporation shall have all the powers and rights and be subject to all the duties conferred or imposed on a board of health by the *Health Protection and Promotion Act*,

Corporation to have powers, etc., of board of health

1983, and shall perform all the functions of such a board, and the functions which would have been performed by the board of health or the medical officer of health or the public health inspector of a board of health shall be performed by the Corporation or the medical officer of health or the health inspector of the Corporation, as the case may be.

Health Unit
continued

(4) The City of Toronto Health Unit designated by regulation made under clause 95 (5) (a) of the *Health Protection and Promotion Act, 1983* is continued as a health unit.

Non-
applicability
of certain
provisions
1983, c. 10

(5) Sections 48 and 51 to 59 and clause 95 (5) (d) of the *Health Protection and Promotion Act, 1983* do not apply to the Corporation.

Transitional

(6) Notwithstanding subsection (5), any person employed or appointed by the Corporation under clause 59 (1) (a) or (b) of the *Health Protection and Promotion Act, 1983* on the day this section comes into force continues to be employed or appointed under that Act.

Definition

3.—(1) In this section,

“social housing program” means a program,

(a) that in the opinion of the council of the Corporation, is designed to provide housing accommodation primarily for persons with low to moderate incomes, at a charge not exceeding the greater of,

(i) the amount required to finance, operate and maintain such accommodation without profit, or

(ii) the amount required to be charged for such accommodation under the terms of an agreement respecting the financing of the accommodation where one party is the provincial or federal government or an agency thereof,

and such accommodation is entirely owned by or leased to, and operated by one or more of,

(iii) a “non-profit co-operative housing corporation” as defined in the *Residential Rent Regulation Act, 1986*, or

1986, c. 63

(iv) a “non-profit corporation” as defined in the *National Housing Act (Canada)*; or

R.S.C. 1970,
c. N-10

- (b) that provides housing accommodation that is owned and operated by or on behalf of the City of Toronto Non-Profit Housing Corporation.

(2) In any by-law passed under section 34 of the *Planning Act, 1983*, the council of the Corporation may, in addition to prescribing densities under the authority of that section, prescribe one or more residential densities of development applicable to any land in respect of which the owner of the land and the operator of the housing accommodation, if different from the owner, agrees with the Corporation to provide all or such proportion as specified in the by-law, of the housing accommodation located or to be located on such land, for the purpose of a social housing program.

By-laws
respecting
densities
1983, c. 1

(3) The Corporation may require an owner, and operator if different from the owner, to enter into one or more agreements respecting the provision of social housing accommodation referred to in subsection (2).

Requiring
agreements

(4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the Corporation is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

Registration
of
agreements

R.S.O. 1980,
cc. 445, 230

(5) No agreement made under subsection (3) shall be declared to be invalid by reason only of the failure to specify particulars of a social housing program.

Validity of
agreements

(6) Where an agreement has been registered under subsection (4), no person shall, during the operation of the agreement, convey any unit of housing accommodation which is part of a social housing program, by way of deed or transfer, or grant, assign or exercise a power of appointment with respect to the unit, or mortgage or charge the unit, or enter into an agreement of sale and purchase respecting the unit, or enter into any agreement which has the effect of granting the use of or right in the unit directly or by entitlement to renewal for a period of twenty-one years or more without the written consent of the Corporation.

Consent of
City required
for
conveyance,
etc.

(7) Where an agreement has been registered under subsection (4), an agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of subsection (6), does not create or convey any interest in the unit.

Conveyance,
etc., contrary
to subs. (6)

Where
R.S.O. 1980,
c. 230 applies
R.S.O. 1980,
c. 230

(8) Where notice of an agreement under subsection (4) has been registered against land to which the *Land Titles Act* applies, the Corporation shall apply to the Land Registrar to have an entry made on the register that,

- (a) no transfer shall be made or charge created;
- (b) no notice of agreement of sale and purchase shall be registered; and
- (c) no lease or notice of lease having the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more shall be registered,

R.S.O. 1980,
c. 230

unless the consent of the Corporation is given to such transfer, charge, notice of agreement, lease or notice of lease and subsection 117 (4) of the *Land Titles Act* applies.

Certificate of
clerk

(9) Where a written consent under subsection (6) has been given by the Corporation, the clerk of the Corporation shall provide a certificate, in registrable form, to the person obtaining the consent stating that the written consent of the Corporation has been obtained and the certificate of the clerk is conclusive evidence that the consent was given and that the provisions of this section leading to the consent have been complied with and, after the certificate has been given, no action may be maintained to question the validity of the consent and the certificate may be registered in the proper land registry office.

Validity of
by-laws
restricting
occupancy

(10) No by-law passed by the council that implements subsection (2) shall be invalidated by reason only that the effect thereof is to restrict occupancy of housing accommodation to such persons or class or classes of persons as are set out in the by-law.

Offence

(11) A by-law that implements subsection (2) may provide that any person entering into an agreement under subsection (3) who fails to provide the proportion or number of units for such period of time as may be specified in the agreement for the purposes of a social housing program is guilty of an offence and upon conviction is liable to a fine of not more than \$10,000.

Damages

(12) In addition to the penalty set out in subsection (11), every owner who contravenes any of the provisions of an agreement entered into under subsection (3) is liable for damages payable to the Corporation in an amount equal to the difference between the charge that should have been made for

the housing accommodation under the agreement, and the actual charge made for such housing accommodation for the period of time that the owner or operator has contravened the agreement, and such damages may be recovered as a debt due to the Corporation.

(13) Subsections (6), (7) and (8) do not apply to an agreement unless those subsections are set out in the agreement.

Contents of agreement

(14) A by-law passed by the council that implements subsection (2) may give exemptions or reductions, or both, from the zoning provisions and standards otherwise applicable to similar forms of housing accommodation which are not part of a social housing program.

Exemptions or reductions

(15) The council of the Corporation shall not be required to pass any by-law under subsection (2), notwithstanding subsection 34 (11) of the *Planning Act, 1983*, and notwithstanding that any proposed development complies with the definition of social housing program in subsection (1).

Council not required to pass by-law 1983, c. 1

(16) The Corporation may enter into an agreement with the owner of land proposing a development on the land that is to contain housing accommodation for the purposes of a social housing program but for which no by-law under section 34 of the *Planning Act, 1983* prescribing the matters set out in subsection (2) is required and the agreement may contain provisions respecting the maintenance of the accommodation and such other terms as are agreed between the owner and the Corporation, and subsections (4), (5), (6), (7), (8), (9) and (13) apply to the agreement.

Agreements with owner

(17) A reference in any by-law passed by the council of the Corporation before this section comes into force to "assisted housing", "assisted housing program" or an "owner" of land who has entered an agreement under section 5 of *The City of Toronto Act, 1975 (No. 2)* shall be deemed to be references to "social housing", "social housing program" and an "owner of land and operator of the housing accommodation if different from the owner", respectively.

Deeming provision

1975, c. 117

(18) Any by-law passed under subsection 5 (2) and any agreement entered into under subsection 5 (3) of *The City of Toronto Act, 1975 (No. 2)*, being chapter 117, before this Act comes into force, shall continue in full force and effect until repealed or revoked by the Corporation.

By-laws and agreements continued 1975, c. 117

4.—(1) In this section,

Definitions

“bus” means a motor vehicle designed for carrying ten or more passengers and used for the transportation of persons;

“City Clerk” means the clerk of the corporation;

“motor vehicle” includes an automobile, motorcycle, motor assisted bicycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other motor vehicles running only upon rails or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine;

“vehicle” includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car.

By-laws
designating
zones for
parking buses

(2) The council of the Corporation may pass by-laws,

- (a) designating zones for the parking of buses on public highways under the jurisdiction of the Corporation;
- (b) regulating the use of such designated zones;
- (c) providing for the time or times during which such designated zones shall operate; and
- (d) prohibiting the parking, stopping or standing of any vehicle other than a bus within such designated zones.

By-laws
respecting
permit
parking

5.—(1) The council of the Corporation may by by-law,

- (a) allow the parking of motor vehicles, or any class or classes thereof, on designated public highways or parts of highways during specified hours pursuant to permits issued to the owners of the vehicles by an official named in the by-law;
- (b) charge such fee as the council may decide for the parking permit;
- (c) provide for cancelling the permits and refunding the unexpired portion of the fee;
- (d) prohibit the parking of motor vehicles on the designated public highways or parts of highways during

the specified hours unless a permit has been issued under the by-law; and

- (e) allow persons to whom a permit has been issued under the by-law to park the motor vehicle in respect of which such permit has been issued on public highways or parts thereof designated under the by-law without using any automatic or other mechanical meter or device erected thereon.

(2) Before passing a by-law under this section, notice of the intention of the Corporation to pass the by-law shall be sent by prepaid mail to all persons rated on the last assessment roll returned to the City Clerk, as amended by decisions of the Assessment Review Board and written information received by the City Clerk with respect to land abutting on the parts of the highway to be designated, at the addresses shown for such persons in the roll. Notice

(3) The City Clerk shall determine whether the information referred to in subsection (2) is appropriate for the purpose, and the determination thereof by the City Clerk and of the persons entitled to notice shall be evidenced by a certificate of the City Clerk and when so evidenced is final and conclusive. Determination by City Clerk

(4) Nothing in subsection (2) authorizes the City Clerk to act on the basis of information not contained in the assessment roll unless it is reasonable for the City Clerk to assume that such information is correct and the information shown on the assessment roll is incorrect, incomplete or out of date. Proviso

(5) Unless a petition objecting to the passing of the proposed by-law, signed by at least two-thirds of the persons entitled to notice as aforesaid is received by the City Clerk within one month next following the latest day of the mailing of any such notices, the Corporation may pass the by-law, but, if a petition objecting to the passing of the proposed by-law, signed by at least two-thirds of the persons entitled to notice as aforesaid, is received by the City Clerk within such time, the Corporation shall not pass the by-law. Petition

(6) Where the council of the Corporation has proceeded under this section and has been prevented from passing the proposed by-law by reason of a petition objecting thereto having been presented under subsection (5), the council may again proceed under this section in respect of the highways or parts thereof proposed to be designated by such by-law at any time after the expiry of the two years next following the presentation of the petition. Saving

Reserve fund (7) The net revenue derived from the operation of the permit parking shall be paid into a reserve fund and applied as set out in clause (f) of paragraph 55 of section 208 of the *Municipal Act*.

R.S.O. 1980,
c. 302

Enforcement (8) A by-law under this section may provide a procedure for the voluntary payment of penalties in cases where it is alleged that the parking provisions of the by-law have been contravened, and the owner of the motor vehicle shall incur the penalties provided for any violation unless, at the time of the violation, the motor vehicle was in the possession of some person, other than the owner or his or her chauffeur, without the owner's consent.

Definitions **6.—(1)** In this section,

R.S.O. 1980,
c. 51 “building” means a building as defined in the *Building Code Act*;

“hazard building” means a building to which two or more of the following criteria apply, namely,

1986, c. 26
1983, c. 1

(a) an application to demolish has been made to the council of the Corporation under the *Rental Housing Protection Act, 1986* or section 33 of the *Planning Act, 1983*, unless permission has been granted under those Acts and demolition of the building has been commenced,

R.S.O. 1980,
c. 51

(b) a building permit for work to be done has been issued under the *Building Code Act* and no work has been done under the building permit for a period of at least twelve consecutive months,

(c) damage of any kind to any part of the building has occurred by reason of fire and the damage has not been repaired,

(d) the building does not contain an operational heating system capable of maintaining an inside temperature of 10 degrees Celsius throughout the building at an outside temperature of -18 degrees Celsius,

(e) the supply of electrical power has been discontinued by the Toronto Electric Commissioners and not reinstated,

(f) a building within which any piping for the flow of water has been ruptured and the piping has not been repaired, or

- (g) damage of any kind has been sustained to any part of a ceiling, floor or wall as a result of the conditions described in clauses (d), (e) or (f) and the damage has not been repaired;

“inspector” means a person designated by either the Fire Chief of the Corporation or the Commissioner of Buildings and Inspections of the Corporation as an inspector for the purpose of administering and enforcing a by-law enacted under this section;

“non-hazard building” means a building which is not a hazard building;

“owner” means the owner of a building and includes,

- (a) the person for the time being managing or receiving the rent of the building whether on his or her own account or as agent or trustee of any other person or who would so receive the rent if the building were let,
- (b) a vendor of the building under an agreement for sale who has paid any municipal taxes thereon after the effective date of the agreement, or
- (c) the person for the time being receiving instalments of the purchase price of the building under an agreement of purchase and sale on his or her own account or as agent or trustee of any other person or who would so receive the instalments of the purchase price if the building were sold under an agreement for sale.

(2) The council of the Corporation may pass by-laws,

By-laws re
vacant
buildings

- (a) prescribing standards to protect against entry of a vacant hazard building or vacant non-hazard building or to detect and signal the presence of a person within a vacant hazard building or vacant non-hazard building;
- (b) requiring an owner of a vacant hazard building to comply with the standards set out in the by-law; and
- (c) requiring an owner of a non-hazard building to comply with the standards set out in the by-law within 180 days of the building becoming vacant.

(3) If an owner,

Remedies

- (a) of a vacant hazard building does not comply with the standards established under clause (2) (a); or
- (b) of a non-hazard building does not comply with the standards established under clause (2) (a) within 180 days of the building becoming vacant,

the Corporation, in addition to any other remedies it may have, may do such work as is necessary to cause the hazard building or non-hazard building to be brought into compliance with the standards.

Lien

(4) The Corporation shall have a lien for any amount expended by or on behalf of the Corporation under the authority of subsection (3) and for a fee covering the reasonable administrative costs of the Corporation, together with interest thereon at a rate to be fixed from time to time by the council, and the certificate of the Clerk of the Corporation as to the total amount shall be final and such total amount may be added to the collector's roll to be collected in one year or to the proper collector's rolls to be collected by instalments over a period of not more than five years and the total of each instalment may be collected in the same manner as real property taxes.

Entry

(5) An officer, employee or agent of the Corporation or an inspector may enter and have access to, through and over any non-hazard building or hazard building for the purposes of enforcing this section or a by-law made thereunder and includes,

- (a) the making of examinations, investigations, tests or inquiries; and
- (b) the doing of such work as is authorized under subsection (3).

Reasonable times

(6) The authority under subsection (5) shall be exercised only at reasonable times.

Produce identification

(7) A person mentioned in subsection (5) shall, upon request, produce proper identification, including evidence of that person's authority or appointment, before entering a hazard or non-hazard building.

Private residences

(8) Subsection (5) is not authority to enter a private residence actually being used as a dwelling without the consent of the occupier.

(9) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (5) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. Evidence

(10) If an owner of a non-hazard building or a hazard building cannot be located or if the owner or an agent, officer or employee of the owner, Application for a warrant

- (a) denies entry or access to, through or over the non-hazard building or hazard building to a person mentioned in subsection (5);
- (b) instructs a person mentioned in subsection (5) to leave the non-hazard building or hazard building;
- (c) obstructs a person mentioned in subsection (5) who is acting for a purpose mentioned in that subsection; or
- (d) refuses to comply with a request for the production of any thing the production of which is requested for the purpose of an examination, investigation, test or inquiry for a purpose mentioned in subsection (5),

a person mentioned in subsection (5) may apply to a justice of the peace for a warrant under subsection (13).

(11) No person shall hinder or obstruct a person mentioned in subsection (5) lawfully carrying out a power, duty or a direction under this section or a by-law enacted under this section. Obstruction prohibited

(12) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (11). Refusal of entry

(13) Where a justice of the peace is satisfied on evidence upon oath, Warrant by justice of the peace

- (a) that there is reasonable and probable ground for believing that it is necessary to enter and have access to, through and over any non-hazard building or hazard building, for any purpose mentioned in subsection (5);

- (b) that the owner of a non-hazard building or hazard building cannot be located; or
- (c) that a person mentioned in subsection (5),
 - (i) has been denied entry to a non-hazard building or hazard building,
 - (ii) has been instructed to leave a non-hazard building or hazard building,
 - (iii) has been obstructed, or
 - (iv) has been refused production of any thing related to an examination, investigation, test or inquiry,

the justice of the peace may issue a warrant authorizing a person mentioned in subsection (5) to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as that person may call upon for assistance.

Execution of
warrant

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

Expiry of
warrant

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

Ex parte
application

(16) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner of the non-hazard building or hazard building.

7.—(1) Section 3 of *The City of Toronto Act, 1964*, being chapter 145, is repealed.

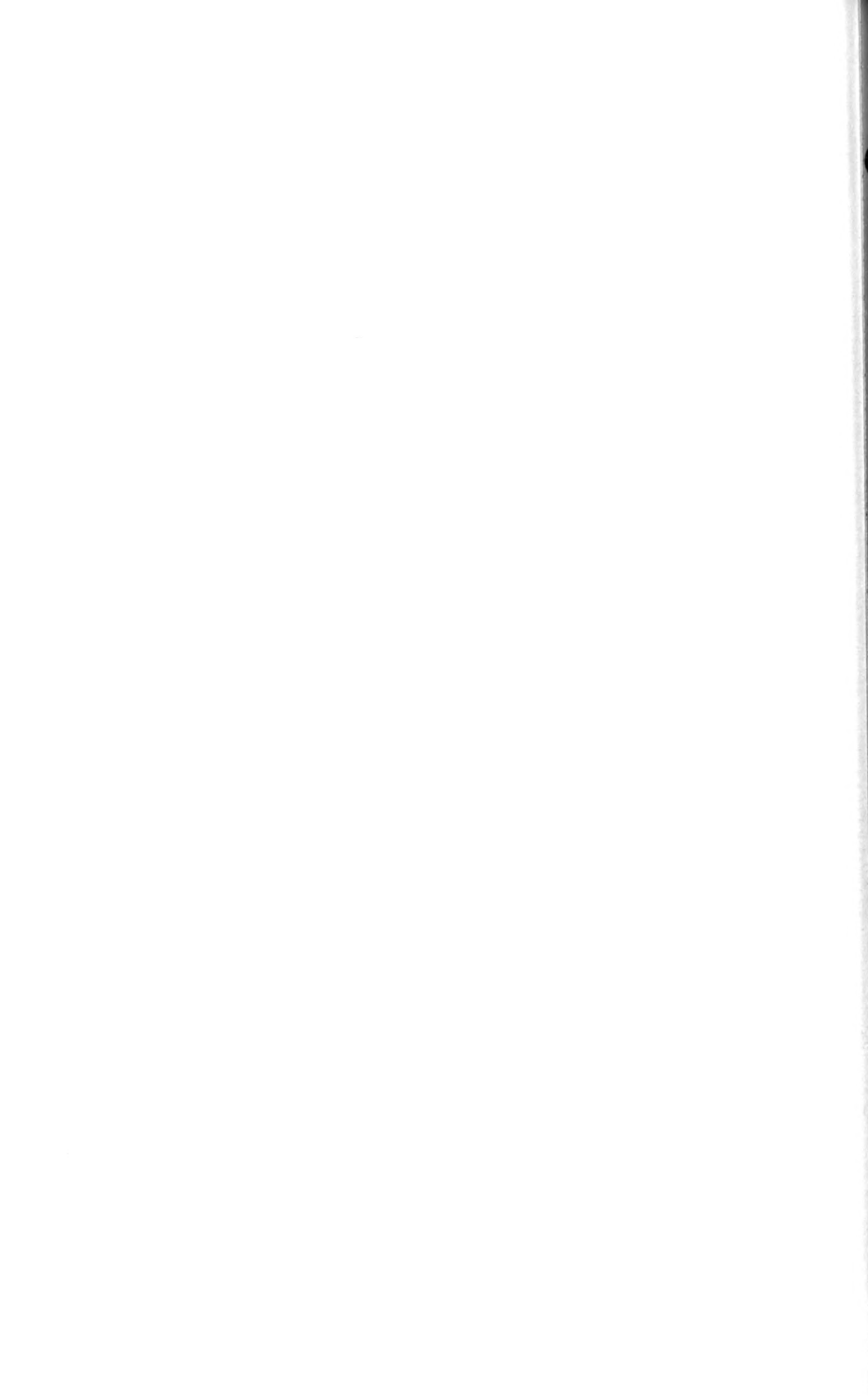
(2) Section 3 of *The City of Toronto Act, 1960-61*, being chapter 137, as amended by the Statutes of Ontario, 1966, chapter 187, section 5, 1971, chapter 130, section 12, 1972, chapter 199, section 4, 1973, chapter 213, section 9, 1976, chapter 105, section 2 and 1980, chapter 126, section 2, is repealed.

(3) Section 5 of *The City of Toronto Act, 1975 (No. 2)*, being chapter 117, as amended by the Statutes of Ontario, 1981, chapter 103, section 3, is repealed.

8.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 2 comes into force sixty days after the day it receives Royal Assent. Idem

9. The short title of this Act is the *City of Toronto Act, 1987*. Short title



Bill Pr57

An Act respecting the City of Toronto

Mr. Offer

1st Reading December 17th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to enable the council of The Corporation of the City of Toronto to exercise greater control over the issuance of demolition permits for buildings which are designated under the *Ontario Heritage Act* or located within an area defined as a heritage conservation district under that Act.

Section 5 provides for fines up to \$1,000,000 to be levied by council and registered against the land under certain circumstances where an existing heritage building has been demolished or removed and a new building has not been substantially completed within two years from the commencement of the demolition.

Section 8 provides for penalties of up to \$10,000 for individuals and \$50,000 for corporations who contravene the Act or provide false information in an application made under the Act. A prosecution may not be commenced without the consent of the Minister of Citizenship and Culture.

Bill Pr57

1987

An Act respecting the City of Toronto

Whereas The Corporation of the City of Toronto, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. In this section,

Definitions

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

R.S.O. 1980,
c. 51

“council” means the council of the Corporation;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

R.S.O. 1980,
c. 337

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may, if no building permit has been issued to erect a new building on the site of the building or structure sought to be demolished or removed, refuse the application and prohibit any work being done to demolish or remove the building or structure.

Application
in respect of
designated
properties

(2) The council shall,

Notice of
decision

- (a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and
- (b) publish its decision in a newspaper having general circulation in the municipality.

Requirements
for
demolition
R.S.O. 1980,
c. 337

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

- (a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

Idem,
transitional

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Application
in respect of
buildings in
heritage
conservation
districts
R.S.O. 1980,
c. 337

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure, the council may, if no building permit has been issued to erect a new building on the site of the building or structure sought to be demolished or removed, refuse the application and prohibit any work from being done to demolish or remove the building or structure.

Notice of
decision

(2) Council shall give notice of its decision under subsection (1) to the owner.

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

Requirements
for
demolition
R.S.O. 1980,
c. 337

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

Idem,
transitional

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Subs. (4)
applies
notwith-
standing
work
commenced

4. Where the council refuses an application under subsection 2 (1) or 3 (1), the applicant may, within twenty days of the mailing or delivery of the notice of the refusal, appeal to the Ontario Municipal Board and the Board shall hear the appeal and either dismiss the same or grant the application, and the decision of the Board is final.

Appeal to
O.M.B.

5.—(1) If,

- (a) a building permit has been issued to erect a new building to replace an existing building or structure and the council, under subsection 34 (2) or 43 (2) of the *Ontario Heritage Act*, subsequently refuses an application made under subsection 34 (1) or section

Fines
imposed
by council

R.S.O. 1980,
c. 337

43 of that Act to demolish or remove the existing building or structure; or

- (b) the council under subsection 2 (1) or 3 (1) refuses an application made under subsection 34 (1) or section 43 of the *Ontario Heritage Act* to demolish or remove a building or structure and a building permit is subsequently issued to erect a new building to replace the existing building or structure,

R.S.O. 1980,
c. 337

and the existing building or structure is demolished or removed, the council may, if the new building has not been substantially completed within two years of the commencement of the demolition or removal of the existing building or structure, direct the clerk of the Corporation to enter on the collector's roll, to be collected in like manner as real property taxes, such sum of money as the council may direct, but not in any case to exceed the sum of \$1,000,000 and such sum shall, until payment thereof, be a lien or charge upon the land upon which the existing building or structure was located.

Lien

(2) Where the clerk of the Corporation adds a sum of money to the collector's roll under subsection (1), a certificate signed by the clerk setting out the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the Corporation of the sum added to the roll, a certificate signed by the clerk of the Corporation showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

Notice of
decision of
council
R.S.O. 1980,
c. 337

6. Where the council has refused an application made under subsection 34 (1) or section 43 of the *Ontario Heritage Act* to demolish or remove a building or structure, the council may direct the clerk of the Corporation,

- (a) to give to the owner a notice of its decision; and
- (b) to register in the proper land registry office against the land upon which the building or structure is located a notice that a decision has been made by council that may result in a lien or charge against the property under subsection 5 (1) of this Act.

Service

7.—(1) Any notice required to be given, delivered or served under this section is sufficiently given, delivered or served if delivered personally or sent by registered mail

addressed to the person to whom delivery or service is required to be made at his or her last known address.

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that he or she, acting in good faith, did not through absence, accident, illness or other cause beyond his or her control receive the notice until a later date. Idem

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks. Publication

8.—(1) Subject to subsection (3), every person who, Offences

- (a) knowingly furnishes false information in any application under this Act or in any statement or report furnished under this Act;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) demolishes or removes any building or structure or a part thereof in contravention of subsection 2 (3), 2 (4), 3 (2) or 3 (3),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein. Corporations

(3) No prosecution for an offence under this Act shall be instituted except with the consent of the Minister of Citizenship and Culture. Consent of Minister

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

10. The short title of this Act is the *City of Toronto Act*, 1987. Short title



Bill Pr57

An Act respecting the City of Toronto

Mr. Offer

1st Reading December 17th, 1986

2nd Reading

3rd Reading

Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTES

The purpose of the Bill is to enable the council of The Corporation of the City of Toronto to exercise greater control over the issuance of demolition permits for buildings which are designated under the *Ontario Heritage Act* or located within an area defined as a heritage conservation district under that Act.

Section 8 provides for penalties of up to \$10,000 for individuals and \$50,000 for corporations who contravene the Act or provide false information in an application made under the Act. Subsections 8 (3), (4) and (5) provide for penalties of up to \$1,000,000 for any person who demolishes a heritage building or structure without first obtaining the consent of the council and for other offences related thereto.

Bill Pr57

1987

An Act respecting the City of Toronto

Whereas The Corporation of the City of Toronto, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

R.S.O. 1980,
c. 51

“council” means the council of the Corporation;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

R.S.O. 1980,
c. 337

“heritage conservation district” means an area designated as such under section 41 of the *Ontario Heritage Act*;

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may refuse the application and prohibit any work being done to demolish or remove the building or structure.

Application
in respect of
designated
properties

(2) The council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council,

Notice of
decision

- (a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and

- (b) publish its decision in a newspaper having general circulation in the municipality,

and where the council fails to notify the owner under clause (a), it shall be deemed to have consented to the application.

Requirements
for
demolition
R.S.O. 1980,
c. 337

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

- (a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

Idem,
transitional

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement
respecting
new building
R.S.O. 1980,
c. 337

(6) An owner who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under clause 34 (2) (b) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall, within two years of the

commencement of the demolition or removal, substantially complete the new building to be erected on the site.

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure within a heritage conservation district, the council may refuse the application and prohibit any work from being done to demolish or remove the building or structure.

Application respecting buildings in heritage conservation districts
R.S.O. 1980, c. 337

(2) Council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council give notice of its decision under subsection (1) to the owner and where council fails to so notify the owner it shall be deemed to have consented to the application.

Notice of decision

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

Requirements for demolition
R.S.O. 1980, c. 337

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

Idem, transitional

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement
respecting
new building
R.S.O. 1980,
c. 337

(6) A person who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under subsection 43 (2) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall within two years of the commencement of the demolition or removal substantially complete the new building to be erected on the site.

Relief from
time
restriction

4.—(1) Where a person who has been refused by the council under subsection 2 (1) or 3 (1) of this Act, or under clause 34 (2) (b) or subsection 43 (2) of the *Ontario Heritage Act*,

- (a) considers that it is not possible to complete a new building within the two year period specified in subsection 2 (6) or 3 (6); or
- (b) considers that the construction of a new building has become not feasible on economic or other grounds,

that person may apply to the council for relief from the requirement imposed by subsection 2 (6) or 3 (6) by sending notice of application by registered mail to the clerk of the Corporation not less than forty-five days before the expiry of the two year period within which the new building is to be substantially completed.

Idem

(2) Where the council extends the time under section 5 for completion of the new building and the applicant considers that,

- (a) it is not possible to complete a new building in the extended time; or
- (b) the construction of a new building has become not feasible on economic or other grounds,

application may be made for relief from the extended completion time by sending notice of application not less than ninety days before the expiry of the extended completion time.

Council may
grant relief

5.—(1) The council shall consider an application under section 4 and may,

- (a) extend the time for completion of the new building;
or
- (b) relieve the applicant from the requirement of constructing the new building.

(2) If time is extended under clause (1) (a), the applicant shall complete the new building within the extended time. Where time extended

(3) If relief is granted under clause (1) (b), the applicant shall thereafter be deemed not to have contravened the provisions of this Act by failing to substantially complete the new building. Where relief granted

6.—(1) Any person who has made application under section 4 may appeal to the Ontario Municipal Board, Appeal to O.M.B.

- (a) from the decision of the council; or
- (b) from the refusal or neglect of council to make a decision thereon within thirty days after the receipt by the clerk of the application.

(2) An appeal under subsection (1) shall be made within twenty days of the mailing of the notice of decision or after the expiration of the thirty day period set out in clause (1) (b) and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under section 5. Idem

(3) The decision of the Board is final. Board's decision final

(4) Where an appeal has been made to the Board under subsection (1), the two year period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision. Extension of time

(5) Where the Board dismisses an appeal from a decision of council under subsection (1) the Board may extend the time for completing the new building for such further period as the Board considers reasonable and the decision of the Board is final. Dismissal of appeal

(6) Where the Board has extended the time for completion of the new building under subsection (2) or (5) the applicant shall substantially complete the new building within the extended time. Requirement where time extended

7.—(1) Any notice required to be given, delivered or served under this section is sufficiently given, delivered or Service

served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his or her last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that he or she, acting in good faith, did not through absence, accident, illness or other cause beyond his or her control receive the notice until a later date.

Publication

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks.

Offence

8.—(1) Subject to subsection (2), every person who knowingly furnishes false information in any application under this Act or in any statement, report or return furnished under this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Offence,
corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Offence

(3) Every person who on designated property or within a heritage conservation district demolishes or removes any building or structure or part thereof or who does any work or causes or permits any work to be done in the demolition or removal of any building or structure or part thereof without that person first obtaining the consent of the council and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(4) Every owner who,

(a) contravenes subsection 2 (3) or (4); or

(b) has an obligation to erect a new building under subsection 2 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under

subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(5) Every person who,

Idem

- (a) contravenes subsection 3 (3) or (4); or
- (b) has an obligation to erect a new building under subsection 3 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both. ▲

9. This Act comes into force on the day it receives Royal Assent. Commence-
ment

10. The short title of this Act is the *City of Toronto Act, 1987*. Short title







Bill Pr57

*(Chapter Pr19
Statutes of Ontario, 1987)*

An Act respecting the City of Toronto

Mr. Offer

<i>1st Reading</i>	December 17th, 1986
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr57

1987

An Act respecting the City of Toronto

Whereas The Corporation of the City of Toronto, herein called the Corporation, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

R.S.O. 1980,
c. 51

“council” means the council of the Corporation;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

R.S.O. 1980,
c. 337

“heritage conservation district” means an area designated as such under section 41 of the *Ontario Heritage Act*;

“owner” means the person registered on title in the proper land registry office as owner.

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may refuse the application and prohibit any work being done to demolish or remove the building or structure.

Application
in respect of
designated
properties

(2) The council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council,

Notice of
decision

- (a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and

- (b) publish its decision in a newspaper having general circulation in the municipality,

and where the council fails to notify the owner under clause (a), it shall be deemed to have consented to the application.

Requirements
for
demolition
R.S.O. 1980,
c. 337

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

- (a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

Idem,
transitional

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement
respecting
new building
R.S.O. 1980,
c. 337

(6) An owner who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under clause 34 (2) (b) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall, within two years of the

commencement of the demolition or removal, substantially complete the new building to be erected on the site.

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure within a heritage conservation district, the council may refuse the application and prohibit any work from being done to demolish or remove the building or structure.

Application respecting buildings in heritage conservation districts
R.S.O. 1980, c. 337

(2) Council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council give notice of its decision under subsection (1) to the owner and where council fails to so notify the owner it shall be deemed to have consented to the application.

Notice of decision

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

Requirements for demolition
R.S.O. 1980, c. 337

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

Idem, transitional

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement
respecting
new building
R.S.O. 1980,
c. 337

(6) A person who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under subsection 43 (2) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall within two years of the commencement of the demolition or removal substantially complete the new building to be erected on the site.

Relief from
time
restriction

4.—(1) Where a person who has been refused by the council under subsection 2 (1) or 3 (1) of this Act, or under clause 34 (2) (b) or subsection 43 (2) of the *Ontario Heritage Act*,

- (a) considers that it is not possible to complete a new building within the two year period specified in subsection 2 (6) or 3 (6); or
- (b) considers that the construction of a new building has become not feasible on economic or other grounds,

that person may apply to the council for relief from the requirement imposed by subsection 2 (6) or 3 (6) by sending notice of application by registered mail to the clerk of the Corporation not less than forty-five days before the expiry of the two year period within which the new building is to be substantially completed.

Idem

(2) Where the council extends the time under section 5 for completion of the new building and the applicant considers that,

- (a) it is not possible to complete a new building in the extended time; or
- (b) the construction of a new building has become not feasible on economic or other grounds,

application may be made for relief from the extended completion time by sending notice of application not less than ninety days before the expiry of the extended completion time.

Council may
grant relief

5.—(1) The council shall consider an application under section 4 and may,

- (a) extend the time for completion of the new building;
or
- (b) relieve the applicant from the requirement of constructing the new building.

(2) If time is extended under clause (1) (a), the applicant shall complete the new building within the extended time. Where time extended

(3) If relief is granted under clause (1) (b), the applicant shall thereafter be deemed not to have contravened the provisions of this Act by failing to substantially complete the new building. Where relief granted

6.—(1) Any person who has made application under section 4 may appeal to the Ontario Municipal Board, Appeal to O.M.B.

- (a) from the decision of the council; or
- (b) from the refusal or neglect of council to make a decision thereon within thirty days after the receipt by the clerk of the application.

(2) An appeal under subsection (1) shall be made within twenty days of the mailing of the notice of decision or after the expiration of the thirty day period set out in clause (1) (b) and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under section 5. Idem

(3) The decision of the Board is final. Board's decision final

(4) Where an appeal has been made to the Board under subsection (1), the two year period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision. Extension of time

(5) Where the Board dismisses an appeal from a decision of council under subsection (1) the Board may extend the time for completing the new building for such further period as the Board considers reasonable and the decision of the Board is final. Dismissal of appeal

(6) Where the Board has extended the time for completion of the new building under subsection (2) or (5) the applicant shall substantially complete the new building within the extended time. Requirement where time extended

7.—(1) Any notice required to be given, delivered or served under this section is sufficiently given, delivered or Service

served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his or her last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that he or she, acting in good faith, did not through absence, accident, illness or other cause beyond his or her control receive the notice until a later date.

Publication

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks.

Offence

8.—(1) Subject to subsection (2), every person who knowingly furnishes false information in any application under this Act or in any statement, report or return furnished under this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Offence,
corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Offence

(3) Every person who on designated property or within a heritage conservation district demolishes or removes any building or structure or part thereof or who does any work or causes or permits any work to be done in the demolition or removal of any building or structure or part thereof without that person first obtaining the consent of the council and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(4) Every owner who,

(a) contravenes subsection 2 (3) or (4); or

(b) has an obligation to erect a new building under subsection 2 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under

subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(5) Every person who,

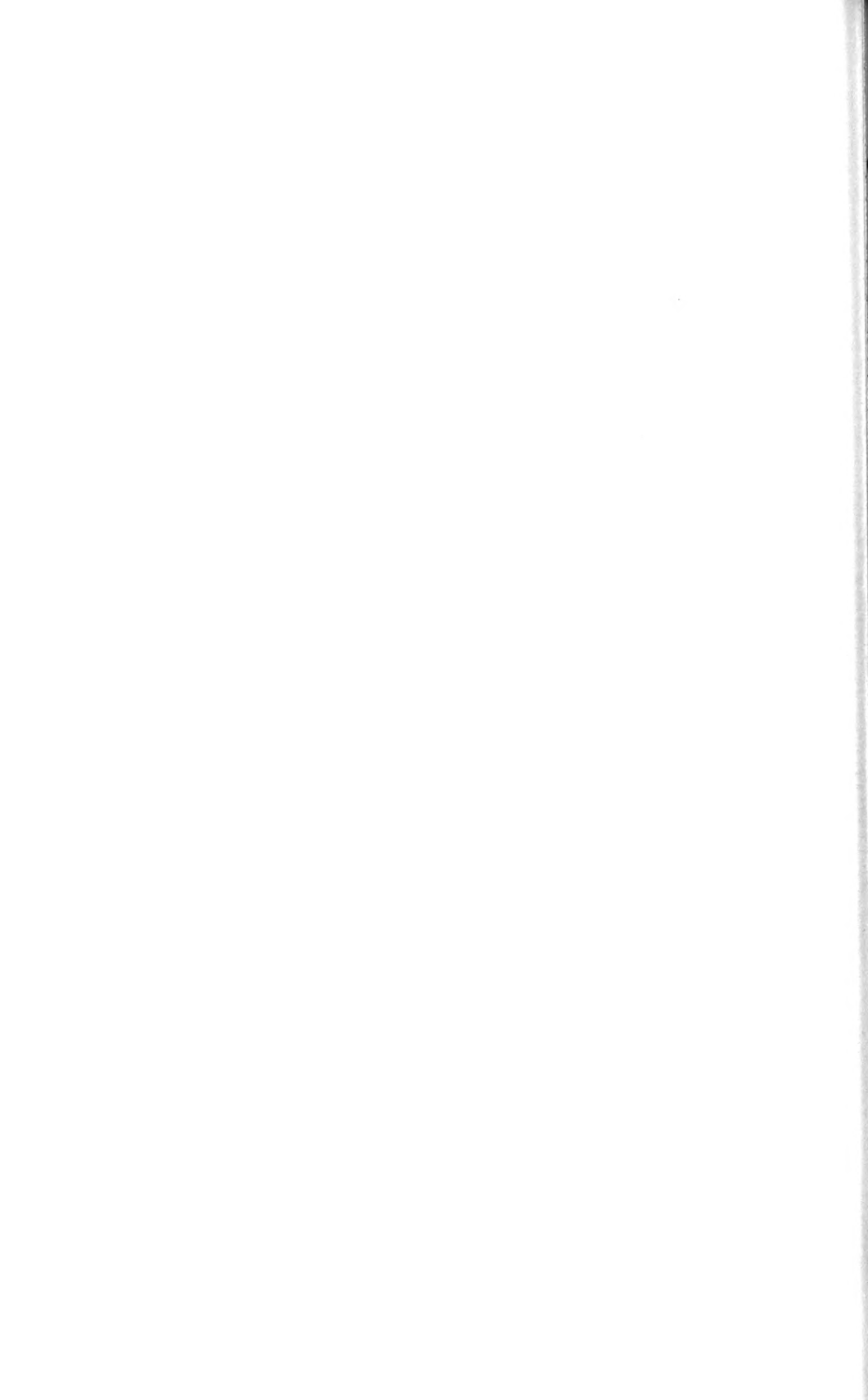
Idem

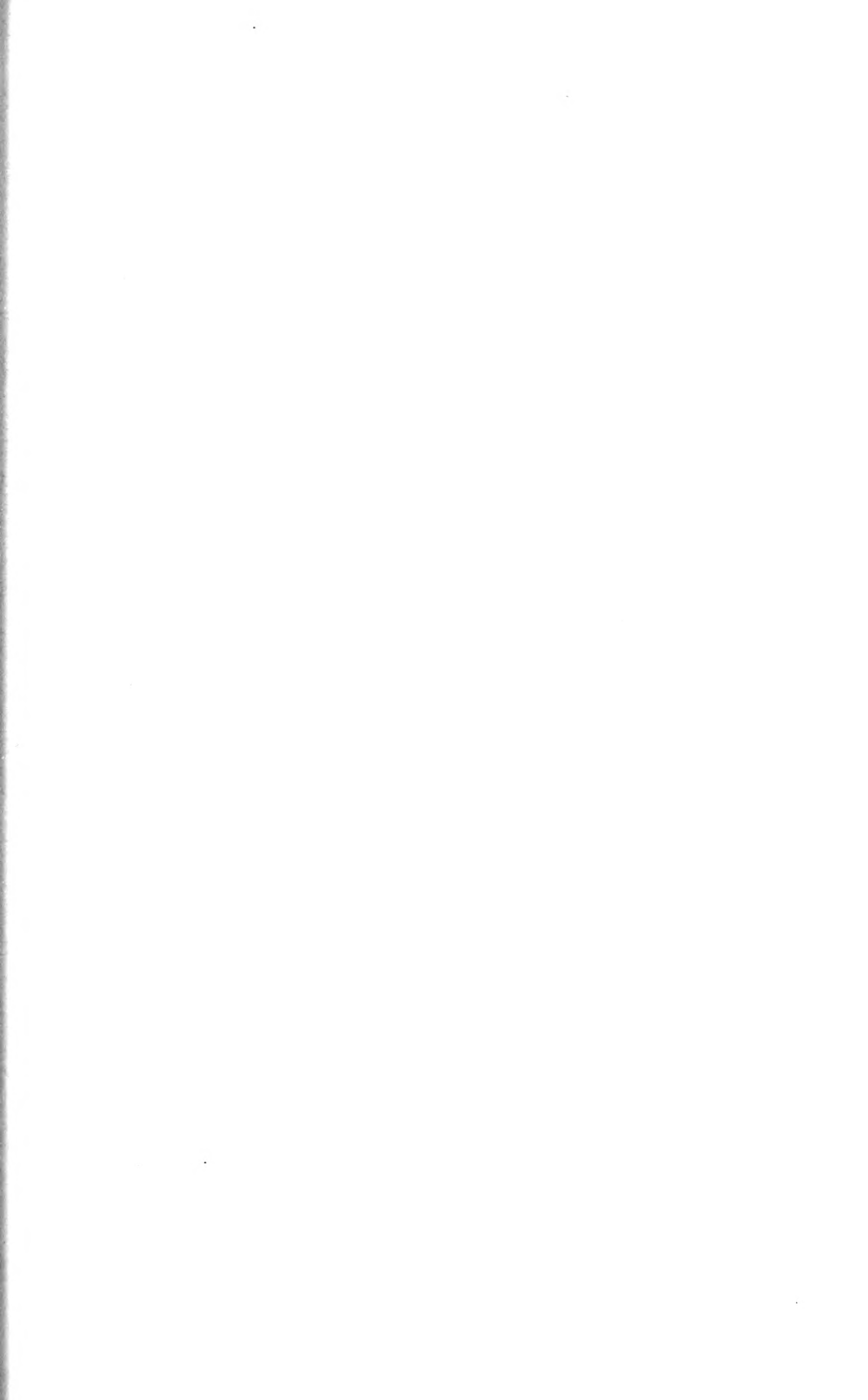
- (a) contravenes subsection 3 (3) or (4); or
- (b) has an obligation to erect a new building under subsection 3 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

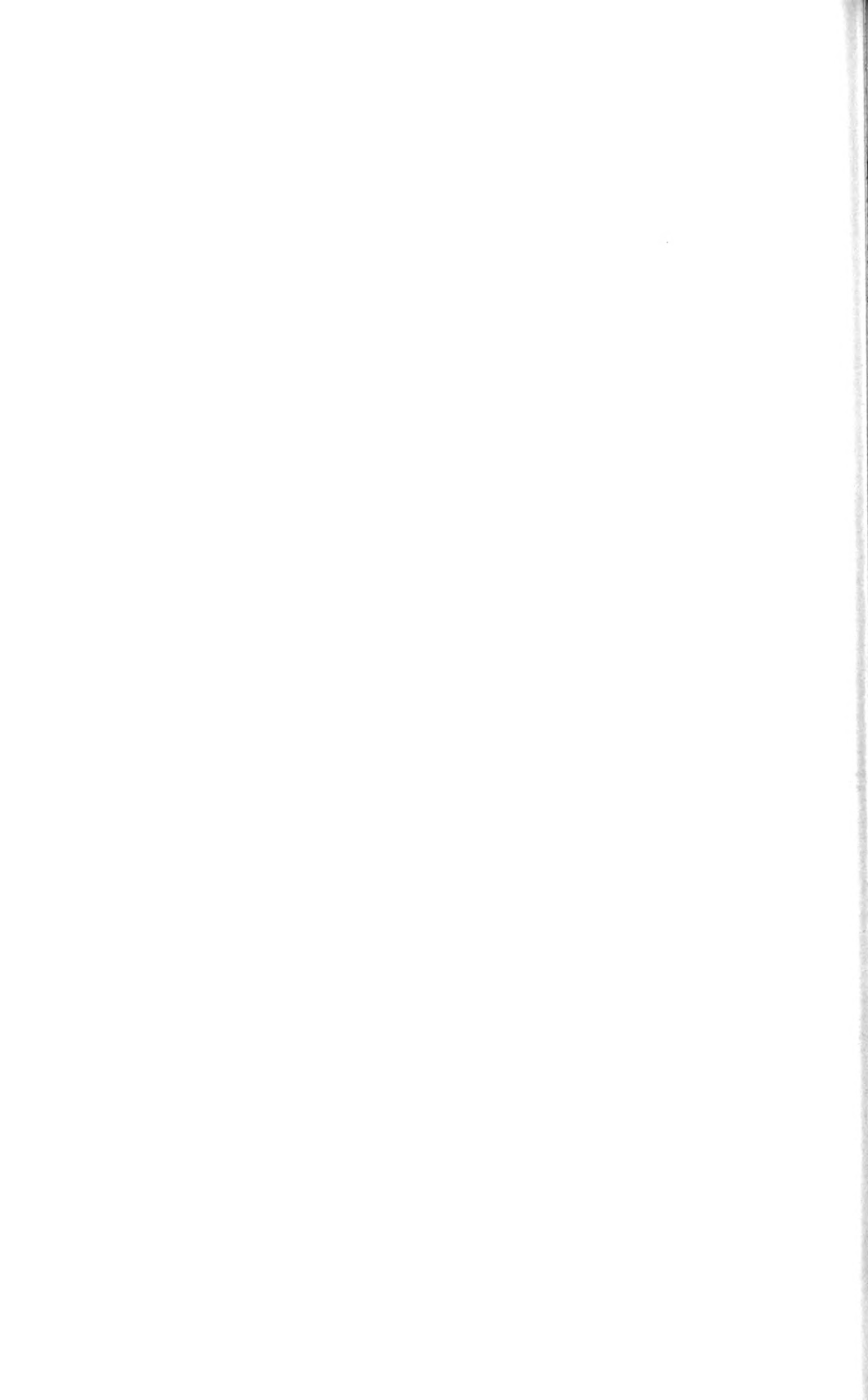
and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

9. This Act comes into force on the day it receives Royal Assent. Commence-
ment

10. The short title of this Act is the *City of Toronto Act*, Short title
1987.







Bill Pr62

An Act respecting The Windsor Utilities Commission

Mr. Newman

1st Reading June 3rd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to enable The Windsor Utilities Commission to pass by-laws for paying the whole or part of the cost of health care benefits and group life insurance for retired employees and the spouses and children of deceased or retired employees.

Bill Pr62

1987

An Act respecting The Windsor Utilities Commission

Whereas The Windsor Utilities Commission, herein called the Commission, hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application; Preamble

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

1. In this Act, Definitions

“child” means a child of an employee under the age of eighteen years to whom the employee provides support or is under a legal obligation to provide support;

“spouse” means a person of the opposite sex,

- (a) to whom the person is married, or
- (b) with whom the person is living outside marriage in a conjugal relationship, if the two persons,
 - (i) have cohabited for at least one year,
 - (ii) are together the parents of a child, or
 - (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*. 1986, c. 4

2. The Commission may pass by-laws for paying the whole or part of the cost of health care benefits and group life insurance for retired employees, their spouses and children, and for the spouses and children of deceased employees. By-laws respecting health care benefits, life insurance

3. If, after the death of an employee or retired employee, that person’s spouse dies or remarries, all benefits authorized under section 2, including benefits for children, terminate. Limitation

Commence-
ment

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

Short title

5. The short title of this Act is the *Windsor Utilities Commission Act, 1987*.

Bill Pr63

An Act respecting the Institute of Municipal Assessors of Ontario

Mr. Cousens

1st Reading May 5th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr63

1987

**An Act respecting the
Institute of Municipal Assessors of Ontario**

Whereas the Institute of Municipal Assessors of Ontario hereby represents that it was incorporated under the laws of Ontario by letters patent dated the 27th day of May, 1957; that the Institute is desirous of being continued as a corporation for the purpose of carrying out the objects of the Institute and of the government and discipline of its members; that the Institute considers it desirable to grant to members of the Institute the exclusive right to use the designations "Member Institute of Municipal Assessors" and the abbreviation thereof, "M.I.M.A.", and certain variations thereof as set out in section 7; and whereas the Institute hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"board" means the board of directors of the Institute;

"Institute" means the Institute of Municipal Assessors of Ontario;

"registered" means registered as a member under this Act and "registration" has a corresponding meaning;

"registrar" means the registrar of the Institute.

2.—(1) The corporation known as the Institute of Municipal Assessors of Ontario is hereby continued as a corporation without share capital and the persons registered as members of the Institute on the day this Act comes into force and such other persons as hereafter become members of the Institute constitute the corporation.

Institute
continued

Board
continued

(2) The members of the board and the officers of the Institute in office immediately before the coming into force of this Act are hereby continued in office until their successors are elected or appointed in accordance with this Act and the by-laws of the Institute.

Letters
patent
revoked

(3) The letters patent of the Institute are revoked, but the revocation does not affect the rights or obligations of the Institute or any by-law, resolution or appointment of the Institute except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Special Act
incorporation

(4) The Institute shall be deemed to be a corporation incorporated by a special Act.

Objects

3. The objects of the Institute are,

- (a) to strive for, establish and maintain standards of competence in real property valuation, primarily in municipal assessment;
- (b) to foster and support intellectual interchange in matters of real property valuation and assessment by collecting, publishing and distributing papers and articles and by holding conferences and seminars;
- (c) to encourage and support scholarship by establishing, maintaining and conducting programs of instruction in real property valuation and municipal assessment and to provide formal training and educational facilities;
- (d) to establish funds, scholarships, bursaries and grants in aid for support or recognition of scholars, students, teachers, educational institutions, and other persons and organizations engaged in real property valuation and municipal assessment and to provide for the administration, management and investment of money held for such purposes;
- (e) to establish standards of competency and to hold examinations and prescribe tests for admission to membership and provide for the classification of membership in the Institute and levels of accreditation related to competence and experience;
- (f) to enter into agreements and co-operate with other institutions with similar objectives; and

- (g) to maintain discipline among members and students and to impose sanctions including the withdrawal or suspension of accreditation in the Institute.

4.—(1) The affairs of the Institute shall be managed by a board of directors. Board of directors

(2) The board shall be made up of not fewer than ten or more than thirty-five members of the Institute, as the board may determine by by-law, and shall consist of, Composition

- (a) the immediate past president of the Institute, *ex officio*;
- (b) the president, first vice-president, second vice-president and third vice-president elected by and from the total membership of the Institute; and
- (c) one person elected by and from the membership of each geographical district established by the board.

(3) The manner of electing the members of the board, the notification to the electors of the time and place of holding elections, the nomination of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of an equality of votes and other necessary details shall be set out in the by-laws of the Institute. Election of board members

(4) The Institute may by by-law establish the term of office of the members of the board, not exceeding two years, and may provide for the election and retirement of the members in rotation. Term

(5) At any meeting of the board, a majority of the members of the board constitutes a quorum. Quorum

(6) The board shall appoint a secretary, a treasurer and a registrar, none of whom need be directors and one person may hold more than one of the offices. Offices

(7) The board may appoint such other persons as are necessary to perform the work of the Institute. Idem

(8) In the case of the death, resignation or incapacity of any member of the board, the office shall be declared vacant by the board and the board shall fill the vacancy in such manner as may be provided by the by-laws of the Institute for the balance of the term. Vacancies

Registrar

(9) The registrar shall perform the functions assigned to the registrar by this Act and such other duties as may be assigned to the registrar by the board.

By-laws

5.—(1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Institute and, without restricting the generality of the foregoing, the board may pass by-laws,

- (a) establishing the qualifications for and conditions of registration for members;
- (b) establishing a curriculum and courses of study to be pursued by students and members and the subjects upon which students and members of the Institute shall be examined and for granting certificates to students and candidates who have successfully passed the examinations;
- (c) regulating and governing the conduct of members of the Institute in the practice of their business, vocation or profession, by prescribing a code of ethics, rules of professional conduct and standards of practice, and by providing for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence;
- (d) prescribing fees payable to the Institute;
- (e) governing the calling, holding and conducting of meetings of the board and of the members of the Institute;
- (f) authorizing the spending of funds and making of grants for the promotion of its objects;
- (g) to provide for the establishment of defined geographical districts within which the members resident or employed therein shall be entitled to elect a member to serve on the board as a director;
- (h) to provide for the nomination and the election of officers and directors by mail;
- (i) to provide for the protection and indemnity of directors, officers and officials acting for the benefit of and on behalf of the Institute; and
- (j) to implement any matter authorized by the objects of the Institute.

(2) A by-law passed under subsection (1) and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the members duly called for that purpose, is effective only until the next annual meeting of the members unless confirmed thereat, and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the members.

Confirmation
of by-law

6.—(1) The Institute shall grant a membership in the Institute to any individual who applies therefor in accordance with the by-laws, if the individual,

Membership
in Institute

- (a) is not less than eighteen years of age;
- (b) has complied with the academic and experience requirements specified in the by-laws of the Institute for the issuance of membership; and
- (c) has obtained such qualifications as the board may set or approve in accordance with the by-laws of the Institute.

(2) The registrar shall keep a register in which shall be entered the names of all members of the Institute in good standing and only those persons so registered are members entitled to the privileges of membership in the Institute.

Register

(3) The register shall be open to examination by the public at the head office of the Institute during normal office hours.

Inspection of
register

(4) Any person who has been refused membership or who has been subject to a disciplinary sanction under the by-laws of the Institute may appeal to the Divisional Court, in accordance with the rules of the court, from the refusal or from the sanction.

Appeal

(5) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of a reasonable fee therefor, the registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Certified
copy of
record

(6) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the board appealed from and may exercise all powers of the board and may direct the board to take any action which the board may take and as the court considers proper, and for such purposes, the court may substitute its

Powers of
court on
appeal

opinion for that of the board or the court may refer the matter back to the board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Designation **7.**—(1) Every registered member of the Institute who has satisfied the criteria for a category of membership as set out in the by-laws of the Institute may use the designation “Member Institute of Municipal Assessors”, “Associate Member Institute of Municipal Assessors”, “Honorary Member Institute of Municipal Assessors”, “Life Member Institute of Municipal Assessors” or “Fellow of the Institute of Municipal Assessors”, as the case may be, and may use after the member’s name the initials “M.I.M.A.”, “A.I.M.A.”, “M.I.M.A.(Hon.)”, “M.I.M.A.(Life)” or “F.I.M.A.”, respectively.

Offence (2) Any person in Ontario who, not being a registered member of the Institute, takes or uses any designation or any set of initials referred to in subsection (1) either alone or in combination with any other word, name, title, initial or description, or implies, suggest or holds out that he or she is a member, associate member, honorary member or life member of the Institute or a fellow thereof is guilty of an offence.

Evidence (3) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register and any certified copy purporting to be signed by a person in that person’s capacity as registrar is proof, in the absence of evidence to the contrary, that such a person is the registrar without any proof of that person’s signature or that the person is the registrar.

Idem (4) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not registered.

Right to practice unaffected **8.** This Act does not affect or interfere with the right of any person who is not a member of the Institute to practice as a municipal assessor in the Province of Ontario.

Surplus **9.** Any surplus derived from carrying on the affairs and business of the Institute shall be devoted and applied solely in promoting and carrying out its objects and purposes and shall not be divided among its members.

10. This Act comes into force on the day it receives Royal Assent. Commence-
ment

11. The short title of this Act is the *Institute of Municipal Assessors Act, 1987*. Short title







Bill Pr63

*(Chapter Pr20
Statutes of Ontario, 1987)*

An Act respecting the Institute of Municipal Assessors of Ontario

Mr. Cousens

<i>1st Reading</i>	May 5th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr63

1987

**An Act respecting the
Institute of Municipal Assessors of Ontario**

Whereas the Institute of Municipal Assessors of Ontario hereby represents that it was incorporated under the laws of Ontario by letters patent dated the 27th day of May, 1957; that the Institute is desirous of being continued as a corporation for the purpose of carrying out the objects of the Institute and of the government and discipline of its members; that the Institute considers it desirable to grant to members of the Institute the exclusive right to use the designations "Member Institute of Municipal Assessors" and the abbreviation thereof, "M.I.M.A.", and certain variations thereof as set out in section 7; and whereas the Institute hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"board" means the board of directors of the Institute;

"Institute" means the Institute of Municipal Assessors of Ontario;

"registered" means registered as a member under this Act and "registration" has a corresponding meaning;

"registrar" means the registrar of the Institute.

2.—(1) The corporation known as the Institute of Municipal Assessors of Ontario is hereby continued as a corporation without share capital and the persons registered as members of the Institute on the day this Act comes into force and such other persons as hereafter become members of the Institute constitute the corporation.

Institute
continued

Board
continued

(2) The members of the board and the officers of the Institute in office immediately before the coming into force of this Act are hereby continued in office until their successors are elected or appointed in accordance with this Act and the by-laws of the Institute.

Letters
patent
revoked

(3) The letters patent of the Institute are revoked, but the revocation does not affect the rights or obligations of the Institute or any by-law, resolution or appointment of the Institute except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Special Act
incorporation

(4) The Institute shall be deemed to be a corporation incorporated by a special Act.

Objects

3. The objects of the Institute are,

- (a) to strive for, establish and maintain standards of competence in real property valuation, primarily in municipal assessment;
- (b) to foster and support intellectual interchange in matters of real property valuation and assessment by collecting, publishing and distributing papers and articles and by holding conferences and seminars;
- (c) to encourage and support scholarship by establishing, maintaining and conducting programs of instruction in real property valuation and municipal assessment and to provide formal training and educational facilities;
- (d) to establish funds, scholarships, bursaries and grants in aid for support or recognition of scholars, students, teachers, educational institutions, and other persons and organizations engaged in real property valuation and municipal assessment and to provide for the administration, management and investment of money held for such purposes;
- (e) to establish standards of competency and to hold examinations and prescribe tests for admission to membership and provide for the classification of membership in the Institute and levels of accreditation related to competence and experience;
- (f) to enter into agreements and co-operate with other institutions with similar objectives; and

- (g) to maintain discipline among members and students and to impose sanctions including the withdrawal or suspension of accreditation in the Institute.

4.—(1) The affairs of the Institute shall be managed by a Board of directors
board of directors.

(2) The board shall be made up of not fewer than ten or Composition
more than thirty-five members of the Institute, as the board may determine by by-law, and shall consist of,

- (a) the immediate past president of the Institute, *ex officio*;
- (b) the president, first vice-president, second vice-president and third vice-president elected by and from the total membership of the Institute; and
- (c) one person elected by and from the membership of each geographical district established by the board.

(3) The manner of electing the members of the board, the Election of board members
notification to the electors of the time and place of holding elections, the nomination of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of an equality of votes and other necessary details shall be set out in the by-laws of the Institute.

(4) The Institute may by by-law establish the term of office Term
of the members of the board, not exceeding two years, and may provide for the election and retirement of the members in rotation.

(5) At any meeting of the board, a majority of the mem- Quorum
bers of the board constitutes a quorum.

(6) The board shall appoint a secretary, a treasurer and a Offices
registrar, none of whom need be directors and one person may hold more than one of the offices.

(7) The board may appoint such other persons as are neces- Idem
sary to perform the work of the Institute.

(8) In the case of the death, resignation or incapacity of Vacancies
any member of the board, the office shall be declared vacant by the board and the board shall fill the vacancy in such manner as may be provided by the by-laws of the Institute for the balance of the term.

Registrar

(9) The registrar shall perform the functions assigned to the registrar by this Act and such other duties as may be assigned to the registrar by the board.

By-laws

5.—(1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Institute and, without restricting the generality of the foregoing, the board may pass by-laws,

- (a) establishing the qualifications for and conditions of registration for members;
- (b) establishing a curriculum and courses of study to be pursued by students and members and the subjects upon which students and members of the Institute shall be examined and for granting certificates to students and candidates who have successfully passed the examinations;
- (c) regulating and governing the conduct of members of the Institute in the practice of their business, vocation or profession, by prescribing a code of ethics, rules of professional conduct and standards of practice, and by providing for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence;
- (d) prescribing fees payable to the Institute;
- (e) governing the calling, holding and conducting of meetings of the board and of the members of the Institute;
- (f) authorizing the spending of funds and making of grants for the promotion of its objects;
- (g) to provide for the establishment of defined geographical districts within which the members resident or employed therein shall be entitled to elect a member to serve on the board as a director;
- (h) to provide for the nomination and the election of officers and directors by mail;
- (i) to provide for the protection and indemnity of directors, officers and officials acting for the benefit of and on behalf of the Institute; and
- (j) to implement any matter authorized by the objects of the Institute.

(2) A by-law passed under subsection (1) and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the members duly called for that purpose, is effective only until the next annual meeting of the members unless confirmed thereat, and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the members.

Confirmation
of by-law

6.—(1) The Institute shall grant a membership in the Institute to any individual who applies therefor in accordance with the by-laws, if the individual,

Membership
in Institute

- (a) is not less than eighteen years of age;
- (b) has complied with the academic and experience requirements specified in the by-laws of the Institute for the issuance of membership; and
- (c) has obtained such qualifications as the board may set or approve in accordance with the by-laws of the Institute.

(2) The registrar shall keep a register in which shall be entered the names of all members of the Institute in good standing and only those persons so registered are members entitled to the privileges of membership in the Institute.

Register

(3) The register shall be open to examination by the public at the head office of the Institute during normal office hours.

Inspection of
register

(4) Any person who has been refused membership or who has been subject to a disciplinary sanction under the by-laws of the Institute may appeal to the Divisional Court, in accordance with the rules of the court, from the refusal or from the sanction.

Appeal

(5) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of a reasonable fee therefor, the registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Certified
copy of
record

(6) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the board appealed from and may exercise all powers of the board and may direct the board to take any action which the board may take and as the court considers proper, and for such purposes, the court may substitute its

Powers of
court on
appeal

opinion for that of the board or the court may refer the matter back to the board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Designation

7.—(1) Every registered member of the Institute who has satisfied the criteria for a category of membership as set out in the by-laws of the Institute may use the designation “Member Institute of Municipal Assessors”, “Associate Member Institute of Municipal Assessors”, “Honorary Member Institute of Municipal Assessors”, “Life Member Institute of Municipal Assessors” or “Fellow of the Institute of Municipal Assessors”, as the case may be, and may use after the member’s name the initials “M.I.M.A.”, “A.I.M.A.”, “M.I.M.A.(Hon.)”, “M.I.M.A.(Life)” or “F.I.M.A.”, respectively.

Offence

(2) Any person in Ontario who, not being a registered member of the Institute, takes or uses any designation or any set of initials referred to in subsection (1) either alone or in combination with any other word, name, title, initial or description, or implies, suggest or holds out that he or she is a member, associate member, honorary member or life member of the Institute or a fellow thereof is guilty of an offence.

Evidence

(3) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register and any certified copy purporting to be signed by a person in that person’s capacity as registrar is proof, in the absence of evidence to the contrary, that such a person is the registrar without any proof of that person’s signature or that the person is the registrar.

Idem

(4) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not registered.

Right to practice unaffected

8. This Act does not affect or interfere with the right of any person who is not a member of the Institute to practice as a municipal assessor in the Province of Ontario.

Surplus

9. Any surplus derived from carrying on the affairs and business of the Institute shall be devoted and applied solely in promoting and carrying out its objects and purposes and shall not be divided among its members.

10. This Act comes into force on the day it receives Royal Assent. Commence-
ment

11. The short title of this Act is the *Institute of Municipal Assessors Act, 1987*. Short title





Bill Pr65

An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.

Mr. McFadden

1st Reading May 7th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr65

1987

**An Act respecting the Ontario Institute of the
Purchasing Management Association of Canada Inc.**

Whereas the Ontario Institute of the Purchasing Management Association of Canada Inc., herein called the Institute, hereby represents that it was incorporated by letters patent dated the 8th day of January, 1987; and whereas the Institute considers it desirable to grant to its members the right to use the designation "Certified Professional Purchaser"; and whereas the applicant hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"board" means the board of directors of the Institute;

"registered" means registered as a member under this Act and "registration" has a corresponding meaning;

"registrar" means the registrar of the Institute.

2.—(1) The Ontario Institute of the Purchasing Management Association of Canada Inc. is continued as a corporation without share capital and the persons registered as members of the Institute on the day this Act comes into force and all other persons who become members of the Institute constitute the corporation.

Institute
continued

(2) The members of the board and the officers of the Institute in office immediately before the coming into force of this Act are continued in office until their successors are appointed or elected in accordance with this Act and the by-laws of the Institute.

Continuation
of present
board

(3) The letters patent of the Institute are revoked, but the revocation does not affect the rights or obligations of the

Letters
patent
revoked

Institute or any by-law, resolution or appointment of the Institute except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Objects

3. The objects of the Institute are,

- (a) to prescribe the qualifications for and conditions of registration for applicants for membership in the Institute;
- (b) to prescribe a curriculum and course of study to be pursued by applicants for membership and the objects upon which such applicants shall be examined and to grant certificates of membership to applicants who have successfully passed the examinations;
- (c) to regulate and to govern the conduct of members of the Institute in the practice of their business or profession by prescribing a code of ethics, rules of professional conduct and standards of practice and to provide for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence, in order that the public interest may be served and protected; and
- (d) to do any other thing that the board of directors reasonably considers will further its objects.

Board of directors

4.—(1) The affairs of the Institute shall be managed by a board of directors.

Composition of board

(2) The board shall consist of not fewer than four and not more than six members of the Institute, as the board may from time to time determine, elected from the membership of the Institute.

Idem

(3) The Institute may by by-law provide for the appointment to the board of up to two persons who are not members of the Institute.

Election of board, term of office

(4) The manner of electing the members of the board, the notification to the electors of the time and place of holding elections, the nomination of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of equality of votes, the term of office of members of the board and other necessary details shall be as set out in the by-laws of the Institute.

(5) At any meeting of the board, a majority of the members of the board constitutes a quorum. Quorum

(6) The board shall elect or appoint such officers as are prescribed by the by-laws. Officers

(7) In the case of the death, resignation or incapacity of any member of the board, the office shall be declared vacant by the board and the board shall fill the vacancy in such manner as may be provided by the by-laws of the Institute for the balance of the term. Vacancies

(8) The Institute shall appoint a registrar who shall perform the functions assigned to that officer by this Act and such other duties as may be assigned to the registrar by the board. Registrar

5. At any annual, general or special meeting, members of the Institute may be represented and vote by proxy but, Proxies

- (a) no proxy shall be exercised by a person who is not a member of the Institute; and
- (b) the proxy shall be exercised in accordance with the by-laws.

6.—(1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Institute and, without restricting the generality of the foregoing, the board may pass by-laws, By-laws

- (a) prescribing the qualification for and conditions of registration for students;
- (b) prescribing a curriculum and courses of study to be pursued by students and the subjects upon which students and candidates for admission as members shall be examined and for granting certificates to students and candidates who have successfully passed the examinations;
- (c) establishing and prescribing such classes of membership, the qualifications for admission thereto, and the privileges and limitations thereof as are necessary and in the public interest;
- (d) regulating and governing the conduct of members in the practice of their business or profession by prescribing a code of ethics, rules of professional conduct, standards of practice and the form, use, issuance and ownership of seals;

- (e) providing for the receipt and consideration of complaints made to the Institute concerning the conduct of its members in the practice of their business or profession, including the establishment of a complaints committee;
- (f) providing for and governing the discipline, suspension, expulsion or other penalty for professional misconduct, incapacity, incompetence, or failure or refusal to pay any required fee, compensation fund levy or insurance premium, including the establishment of a discipline committee and procedures therefor;
- (g) prescribing fees payable to the Institute;
- (h) fixing and regulating the time, place, calling and conduct of annual and special general meetings of the Institute and meetings of the board;
- (i) establishing and providing for the administration of a benevolent fund for the benefit of any member or the families of deceased members who may require financial assistance and, for that purpose, providing for the receipt of contributions or donations and for contributions from the funds of the Institute;
- (j) authorizing the making of grants for any purpose that may tend to advance purchasing knowledge and education, improve standards of practice in purchasing management and support and encourage public information and interest in the past and present role of purchasing management in society;
- (k) governing the acquisition, management, disposal and conduct of the property and affairs of the Institute;
- (l) providing for the appointment, removal, functions, duties and remuneration of agents, officers and employees of the Institute;
- (m) establishing such standing committees as the board considers necessary to carry out the business of the Institute; and
- (n) providing procedures for the reception, review and resolution of complaints brought against any member of the Institute.

(2) No by-law passed by the board comes into force until it is confirmed or amended and confirmed by the general membership at an annual meeting or at a special meeting called for the purpose of considering the by-law. Confirmation
of by-laws

(3) The by-laws of the Institute passed under subsection (1) shall be open to examination by the public at the head office of the Institute during normal office hours. Inspection
of by-laws

7.—(1) The Institute shall grant a membership in the Institute to any individual who applies therefor in accordance with the by-laws, if the individual, Membership

(a) is of good character;

(b) is not less than eighteen years of age;

(c) has complied with the academic and experience requirements specified in the by-laws for the issuance of membership; and

(d) has passed such examinations as the board of directors of the Institute may set or approve in accordance with the by-laws.

(2) The registrar shall keep a register in which shall be entered the names of all members of the Institute in good standing and only those persons so registered are members entitled to the privileges of membership in the Institute. Register

(3) The register shall be open to examination by the public at the head office of the Institute during normal office hours. Inspection
of records

(4) An individual who is qualified for membership in the Institute who has been refused membership or a person who has been subject to a disciplinary sanction under the by-laws may appeal to the Divisional Court, in accordance with the rules of court, from the refusal to grant membership or from the sanction. Appeals

(5) Where a person appeals to the Divisional Court, the registrar shall forthwith file in the Court a record of the proceeding that resulted in failure or a refusal to grant membership or the decision of the committee imposing a sanction which, together with any transcript of evidence, if there is one, shall constitute the record in the appeal. Records

(6) An appeal under this section may be made on questions of law or fact, or both, and the Divisional Court may rescind any decision, may exercise all powers of any committee and Powers of
Court

may direct the Institute to take any action that the Institute is empowered to take as the Court considers proper and, for such purposes, the Court may substitute its opinion for that of any committee or of the Institute or the Court may refer the matter back for rehearing, in whole or in part, in accordance with such directions as the Court considers proper.

Designation

8.—(1) Every member of the Institute may use the designation “Certified Professional Purchaser” and may use after his or her name the initials “C.P.P.” indicating that he or she is a Certified Professional Purchaser and may use a seal in a form provided by the by-laws.

Offence

(2) Any person in Ontario who, not being a registered member of the Institute, takes or uses the designation “Certified Professional Purchaser” alone or in combination with any other word, name, title or description or implies, suggests or holds out that he or she is a Certified Professional Purchaser is guilty of an offence.

Unregistered persons

(3) No action shall be brought in any court in Ontario or any fees, compensation or other remuneration collected for services performed unless the person bringing the action or collecting the fee, compensation or other remuneration was a Certified Professional Purchaser at the time the service was performed.

Evidence

(4) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in his or her capacity as registrar is proof, in the absence of evidence to the contrary, that such person is the registrar without any proof of the person’s signature or of the person being in fact the registrar.

Idem

(5) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not registered.

Removal from register

9.—(1) The board shall cause the removal of the name of a member from the register,

(a) at the request or with the written consent of the member whose name is to be removed;

(b) where the name has been incorrectly entered;

- (c) where notification is received of a member's death;
or
- (d) where the registration of a member has been suspended or revoked through disciplinary proceedings.

(2) Subject to subsection (3), the board, on such grounds as it considers sufficient, may cause the name of a person removed from the register to be restored thereto either without fee or upon payment to the Institute of,

Restoration
to register

- (a) a sum not exceeding the fees or other sums in arrears and owing by the person to the Institute; and
- (b) such additional sum as may be prescribed by the by-laws.

(3) Where the name of a person who has been suspended or whose registration has been suspended or revoked under clause (1) (d) is to be restored to the register under subsection (2), the board may, by resolution, direct that the name be restored subject to such terms and conditions as the board may impose.

Idem

10. This Act does not affect or interfere with the right of any person who is not a member of the Institute to practice as a professional purchaser in the Province of Ontario.

Rights not
affected

11. All surplus derived from carrying on the affairs and business of the Institute shall be devoted and applied solely in promoting and carrying out its objects and purposes and shall not be divided among its members.

Surplus

12. The Institute or board or any member of the Institute, the board or any standing committee is not liable for any loss or damage suffered by any person as a result of anything done by it or them in good faith in the administration of this Act or by-laws made thereunder.

Liability

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

Commence-
ment

14. The short title of this Act is the *Ontario Institute of the Purchasing Management Association of Canada Inc. Act, 1987.*

Short title





Bill Pr65

An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.

Mr. McFadden

1st Reading May 7th, 1987

2nd Reading

3rd Reading

Royal Assent

(Reprinted as amended by the Regulations and Private Bills Committee)

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr65

1987

**An Act respecting the Ontario Institute of the
Purchasing Management Association of Canada Inc.**

Whereas the Ontario Institute of the Purchasing Management Association of Canada Inc., herein called the Institute, hereby represents that it was incorporated by letters patent dated the 8th day of January, 1987; and whereas the Institute considers it desirable to grant to its members the right to use the designation "Certified Professional Purchaser"; and whereas the applicant hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"board" means the board of directors of the Institute;

"registered" means registered as a member under this Act and "registration" has a corresponding meaning;

"registrar" means the registrar of the Institute.

2.—(1) The Ontario Institute of the Purchasing Management Association of Canada Inc. is continued as a corporation without share capital and the persons registered as members of the Institute on the day this Act comes into force and all other persons who become members of the Institute constitute the corporation.

Institute
continued

(2) The members of the board and the officers of the Institute in office immediately before the coming into force of this Act are continued in office until their successors are appointed or elected in accordance with this Act and the by-laws of the Institute.

Continuation
of present
board

(3) The letters patent of the Institute are revoked, but the revocation does not affect the rights or obligations of the

Letters
patent
revoked

Institute or any by-law, resolution or appointment of the Institute except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Objects

3. The objects of the Institute are,

- (a) to encourage research and development in the procurement and materials management field;
- (b) to establish and encourage the application of high standards of ethical conduct among its members;
- (c) to promote and improve procurement and material management practices.

Board of directors

4.—(1) The affairs of the Institute shall be managed by a board of directors.

Composition of board

(2) The board shall consist of not fewer than four and not more than six members of the Institute, as the board may from time to time determine, elected from the membership of the Institute.

Idem

(3) The Institute may by by-law provide for the appointment to the board of up to two persons who are not members of the Institute.

Election of board, term of office

(4) The manner of electing the members of the board, the notification to the electors of the time and place of holding elections, the nomination of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of equality of votes, the term of office of members of the board and other necessary details shall be as set out in the by-laws of the Institute.

Quorum

(5) At any meeting of the board, a majority of the members of the board constitutes a quorum.

Officers

(6) The board shall elect or appoint such officers as are prescribed by the by-laws.

Vacancies

(7) In the case of the death, resignation or incapacity of any member of the board, the office shall be declared vacant by the board and the board shall fill the vacancy in such manner as may be provided by the by-laws of the Institute for the balance of the term.

Registrar

(8) The Institute shall appoint a registrar who shall perform the functions assigned to that officer by this Act and such other duties as may be assigned to the registrar by the board.

5. At any annual, general or special meeting, members of the Institute may be represented and vote by proxy but, ^{Proxies}

- (a) no proxy shall be exercised by a person who is not a member of the Institute; and
- (b) the proxy shall be exercised in accordance with the by-laws.

6.—(1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Institute and, without restricting the generality of the foregoing, the board may pass by-laws, ^{By-laws}

- (a) prescribing the qualification for and conditions of registration for students;
- (b) prescribing a curriculum and courses of study to be pursued by students and the subjects upon which students and candidates for admission as members shall be examined and for granting certificates to students and candidates who have successfully passed the examinations;
- (c) establishing and prescribing such classes of membership, the qualifications for admission thereto, and the privileges and limitations thereof as are necessary and in the public interest;
- (d) regulating and governing the conduct of members in the practice of their business or profession by prescribing a code of ethics, rules of professional conduct, standards of practice and the form, use, issuance and ownership of seals;
- (e) providing for the receipt and consideration of complaints made to the Institute concerning the conduct of its members in the practice of their business or profession, including the establishment of a complaints committee;
- (f) providing for and governing the discipline, suspension, expulsion or other penalty for professional misconduct, incapacity, incompetence, or failure or refusal to pay any required fee, compensation fund levy or insurance premium, including the establishment of a discipline committee and procedures therefor;
- (g) prescribing fees payable to the Institute;

- (h) fixing and regulating the time, place, calling and conduct of annual and special general meetings of the Institute and meetings of the board;
- (i) establishing and providing for the administration of a benevolent fund for the benefit of any member or the families of deceased members who may require financial assistance and, for that purpose, providing for the receipt of contributions or donations and for contributions from the funds of the Institute;
- (j) authorizing the making of grants for any purpose that may tend to advance purchasing knowledge and education, improve standards of practice in purchasing management and support and encourage public information and interest in the past and present role of purchasing management in society;
- (k) governing the acquisition, management, disposal and conduct of the property and affairs of the Institute;
- (l) providing for the appointment, removal, functions, duties and remuneration of agents, officers and employees of the Institute;
- (m) establishing such standing committees as the board considers necessary to carry out the business of the Institute; and
- (n) providing procedures for the reception, review and resolution of complaints brought against any member of the Institute.

Confirmation
of by-laws

(2) No by-law passed by the board comes into force until it is confirmed or amended and confirmed by the general membership at an annual meeting or at a special meeting called for the purpose of considering the by-law.

Inspection
of by-laws

(3) The by-laws of the Institute passed under subsection (1) shall be open to examination by the public at the head office of the Institute during normal office hours.

Membership

7.—(1) The Institute shall grant a membership in the Institute to any individual who applies therefor in accordance with the by-laws, if the individual,

- (a) is of good character;
- (b) is not less than eighteen years of age;

(c) has complied with the academic and experience requirements specified in the by-laws for the issuance of membership; and

(d) has passed such examinations as the board of directors of the Institute may set or approve in accordance with the by-laws.

(2) The registrar shall keep a register in which shall be entered the names of all members of the Institute in good standing and only those persons so registered are members entitled to the privileges of membership in the Institute. Register

(3) The register shall be open to examination by the public at the head office of the Institute during normal office hours. Inspection of records

(4) An individual who is qualified for membership in the Institute who has been refused membership or a person who has been subject to a disciplinary sanction under the by-laws may appeal to the Divisional Court, in accordance with the rules of court, from the refusal to grant membership or from the sanction. Appeals

(5) Where a person appeals to the Divisional Court, the registrar shall forthwith file in the Court a record of the proceeding that resulted in failure or a refusal to grant membership or the decision of the committee imposing a sanction which, together with any transcript of evidence, if there is one, shall constitute the record in the appeal. Records

(6) An appeal under this section may be made on questions of law or fact, or both, and the Divisional Court may rescind any decision, may exercise all powers of any committee and may direct the Institute to take any action that the Institute is empowered to take as the Court considers proper and, for such purposes, the Court may substitute its opinion for that of any committee or of the Institute or the Court may refer the matter back for rehearing, in whole or in part, in accordance with such directions as the Court considers proper. Powers of Court

8.—(1) Every member of the Institute may use the designation “Certified Professional Purchaser” and may use after his or her name the initials “C.P.P.” indicating that he or she is a Certified Professional Purchaser and may use a seal in a form provided by the by-laws. Designation

(2) Any person in Ontario who, not being a registered member of the Institute, takes or uses the designation “Certified Professional Purchaser” alone or in combination with any other word, name, title or description or implies, suggests or

holds out that he or she is a Certified Professional Purchaser is guilty of an offence.

Unregistered
persons

(3) No action shall be brought in any court in Ontario or any fees, compensation or other remuneration collected for services performed as a certified professional purchaser unless the person bringing the action or collecting the fee, compensation or other remuneration was a Certified Professional Purchaser at the time the service was performed.

Evidence

(4) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in his or her capacity as registrar is proof, in the absence of evidence to the contrary, that such person is the registrar without any proof of the person's signature or of the person being in fact the registrar.

Idem

(5) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not registered.

Removal
from register

9.—(1) The board shall cause the removal of the name of a member from the register,

- (a) at the request or with the written consent of the member whose name is to be removed;
- (b) where the name has been incorrectly entered;
- (c) where notification is received of a member's death;
or
- (d) where the registration of a member has been suspended or revoked through disciplinary proceedings.

Restoration
to register

(2) Subject to subsection (3), the board, on such grounds as it considers sufficient, may cause the name of a person removed from the register to be restored thereto either without fee or upon payment to the Institute of,

- (a) a sum not exceeding the fees or other sums in arrears and owing by the person to the Institute; and

(b) such additional sum as may be prescribed by the by-laws.

(3) Where the name of a person who has been suspended or whose registration has been suspended or revoked under clause (1) (d) is to be restored to the register under subsection (2), the board may, by resolution, direct that the name be restored subject to such terms and conditions as the board may impose. Idem

10. This Act does not affect or interfere with the right of any person who is not a member of the Institute to practice as a professional purchaser in the Province of Ontario. Rights not affected

11. All surplus, profits and other accretions derived from carrying on the affairs and business of the Institute shall be devoted and applied solely in promoting and carrying out its objects and purposes without gain to its members and shall not be divided among its members. Profits, etc., not to be distributed to members

12. The Institute or board or any member of the Institute, the board or any standing committee is not liable for any loss or damage suffered by any person as a result of anything done by it or them in good faith in the administration of this Act or by-laws made thereunder. Liability

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

14. The short title of this Act is the *Ontario Institute of the Purchasing Management Association of Canada Inc. Act, 1987.* Short title





Bill Pr65

*(Chapter Pr21
Statutes of Ontario, 1987)*

An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.

Mr. McFadden

<i>1st Reading</i>	May 7th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr65

1987

**An Act respecting the Ontario Institute of the
Purchasing Management Association of Canada Inc.**

Whereas the Ontario Institute of the Purchasing Management Association of Canada Inc., herein called the Institute, hereby represents that it was incorporated by letters patent dated the 8th day of January, 1987; and whereas the Institute considers it desirable to grant to its members the right to use the designation "Certified Professional Purchaser"; and whereas the applicant hereby applies for special legislation for such purpose; and whereas it is expedient to grant the application;

Preamble

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

1. In this Act,

Definitions

"board" means the board of directors of the Institute;

"registered" means registered as a member under this Act and "registration" has a corresponding meaning;

"registrar" means the registrar of the Institute.

2.—(1) The Ontario Institute of the Purchasing Management Association of Canada Inc. is continued as a corporation without share capital and the persons registered as members of the Institute on the day this Act comes into force and all other persons who become members of the Institute constitute the corporation.

Institute
continued

(2) The members of the board and the officers of the Institute in office immediately before the coming into force of this Act are continued in office until their successors are appointed or elected in accordance with this Act and the by-laws of the Institute.

Continuation
of present
board

(3) The letters patent of the Institute are revoked, but the revocation does not affect the rights or obligations of the

Letters
patent
revoked

Institute or any by-law, resolution or appointment of the Institute except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Objects

3. The objects of the Institute are,

- (a) to encourage research and development in the procurement and materials management field;
- (b) to establish and encourage the application of high standards of ethical conduct among its members;
- (c) to promote and improve procurement and material management practices.

Board of directors

4.—(1) The affairs of the Institute shall be managed by a board of directors.

Composition of board

(2) The board shall consist of not fewer than four and not more than six members of the Institute, as the board may from time to time determine, elected from the membership of the Institute.

Idem

(3) The Institute may by by-law provide for the appointment to the board of up to two persons who are not members of the Institute.

Election of board, term of office

(4) The manner of electing the members of the board, the notification to the electors of the time and place of holding elections, the nomination of candidates, the presiding officers at elections, the taking and counting of votes, the giving of a casting vote in the case of equality of votes, the term of office of members of the board and other necessary details shall be as set out in the by-laws of the Institute.

Quorum

(5) At any meeting of the board, a majority of the members of the board constitutes a quorum.

Officers

(6) The board shall elect or appoint such officers as are prescribed by the by-laws.

Vacancies

(7) In the case of the death, resignation or incapacity of any member of the board, the office shall be declared vacant by the board and the board shall fill the vacancy in such manner as may be provided by the by-laws of the Institute for the balance of the term.

Registrar

(8) The Institute shall appoint a registrar who shall perform the functions assigned to that officer by this Act and such other duties as may be assigned to the registrar by the board.

5. At any annual, general or special meeting, members of the Institute may be represented and vote by proxy but, ^{Proxies}

- (a) no proxy shall be exercised by a person who is not a member of the Institute; and
- (b) the proxy shall be exercised in accordance with the by-laws.

6.—(1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Institute and, without restricting the generality of the foregoing, the board may pass by-laws, ^{By-laws}

- (a) prescribing the qualification for and conditions of registration for students;
- (b) prescribing a curriculum and courses of study to be pursued by students and the subjects upon which students and candidates for admission as members shall be examined and for granting certificates to students and candidates who have successfully passed the examinations;
- (c) establishing and prescribing such classes of membership, the qualifications for admission thereto, and the privileges and limitations thereof as are necessary and in the public interest;
- (d) regulating and governing the conduct of members in the practice of their business or profession by prescribing a code of ethics, rules of professional conduct, standards of practice and the form, use, issuance and ownership of seals;
- (e) providing for the receipt and consideration of complaints made to the Institute concerning the conduct of its members in the practice of their business or profession, including the establishment of a complaints committee;
- (f) providing for and governing the discipline, suspension, expulsion or other penalty for professional misconduct, incapacity, incompetence, or failure or refusal to pay any required fee, compensation fund levy or insurance premium, including the establishment of a discipline committee and procedures therefor;
- (g) prescribing fees payable to the Institute;

- (h) fixing and regulating the time, place, calling and conduct of annual and special general meetings of the Institute and meetings of the board;
- (i) establishing and providing for the administration of a benevolent fund for the benefit of any member or the families of deceased members who may require financial assistance and, for that purpose, providing for the receipt of contributions or donations and for contributions from the funds of the Institute;
- (j) authorizing the making of grants for any purpose that may tend to advance purchasing knowledge and education, improve standards of practice in purchasing management and support and encourage public information and interest in the past and present role of purchasing management in society;
- (k) governing the acquisition, management, disposal and conduct of the property and affairs of the Institute;
- (l) providing for the appointment, removal, functions, duties and remuneration of agents, officers and employees of the Institute;
- (m) establishing such standing committees as the board considers necessary to carry out the business of the Institute; and
- (n) providing procedures for the reception, review and resolution of complaints brought against any member of the Institute.

Confirmation
of by-laws

(2) No by-law passed by the board comes into force until it is confirmed or amended and confirmed by the general membership at an annual meeting or at a special meeting called for the purpose of considering the by-law.

Inspection
of by-laws

(3) The by-laws of the Institute passed under subsection (1) shall be open to examination by the public at the head office of the Institute during normal office hours.

Membership

7.—(1) The Institute shall grant a membership in the Institute to any individual who applies therefor in accordance with the by-laws, if the individual,

- (a) is of good character;
- (b) is not less than eighteen years of age;

- (c) has complied with the academic and experience requirements specified in the by-laws for the issuance of membership; and
- (d) has passed such examinations as the board of directors of the Institute may set or approve in accordance with the by-laws.

(2) The registrar shall keep a register in which shall be entered the names of all members of the Institute in good standing and only those persons so registered are members entitled to the privileges of membership in the Institute. Register

(3) The register shall be open to examination by the public at the head office of the Institute during normal office hours. Inspection of records

(4) An individual who is qualified for membership in the Institute who has been refused membership or a person who has been subject to a disciplinary sanction under the by-laws may appeal to the Divisional Court, in accordance with the rules of court, from the refusal to grant membership or from the sanction. Appeals

(5) Where a person appeals to the Divisional Court, the registrar shall forthwith file in the Court a record of the proceeding that resulted in failure or a refusal to grant membership or the decision of the committee imposing a sanction which, together with any transcript of evidence, if there is one, shall constitute the record in the appeal. Records

(6) An appeal under this section may be made on questions of law or fact, or both, and the Divisional Court may rescind any decision, may exercise all powers of any committee and may direct the Institute to take any action that the Institute is empowered to take as the Court considers proper and, for such purposes, the Court may substitute its opinion for that of any committee or of the Institute or the Court may refer the matter back for rehearing, in whole or in part, in accordance with such directions as the Court considers proper. Powers of Court

8.—(1) Every member of the Institute may use the designation “Certified Professional Purchaser” and may use after his or her name the initials “C.P.P.” indicating that he or she is a Certified Professional Purchaser and may use a seal in a form provided by the by-laws. Designation

(2) Any person in Ontario who, not being a registered member of the Institute, takes or uses the designation “Certified Professional Purchaser” alone or in combination with any other word, name, title or description or implies, suggests or

Offence

holds out that he or she is a Certified Professional Purchaser is guilty of an offence.

Unregistered
persons

(3) No action shall be brought in any court in Ontario or any fees, compensation or other remuneration collected for services performed as a certified professional purchaser unless the person bringing the action or collecting the fee, compensation or other remuneration was a Certified Professional Purchaser at the time the service was performed.

Evidence

(4) In every case where registration is an issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in his or her capacity as registrar is proof, in the absence of evidence to the contrary, that such person is the registrar without any proof of the person's signature or of the person being in fact the registrar.

Idem

(5) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not registered.

Removal
from register

9.—(1) The board shall cause the removal of the name of a member from the register,

- (a) at the request or with the written consent of the member whose name is to be removed;
- (b) where the name has been incorrectly entered;
- (c) where notification is received of a member's death;
or
- (d) where the registration of a member has been suspended or revoked through disciplinary proceedings.

Restoration
to register

(2) Subject to subsection (3), the board, on such grounds as it considers sufficient, may cause the name of a person removed from the register to be restored thereto either without fee or upon payment to the Institute of,

- (a) a sum not exceeding the fees or other sums in arrears and owing by the person to the Institute; and

- (b) such additional sum as may be prescribed by the by-laws.

(3) Where the name of a person who has been suspended or whose registration has been suspended or revoked under clause (1) (d) is to be restored to the register under subsection (2), the board may, by resolution, direct that the name be restored subject to such terms and conditions as the board may impose. Idem

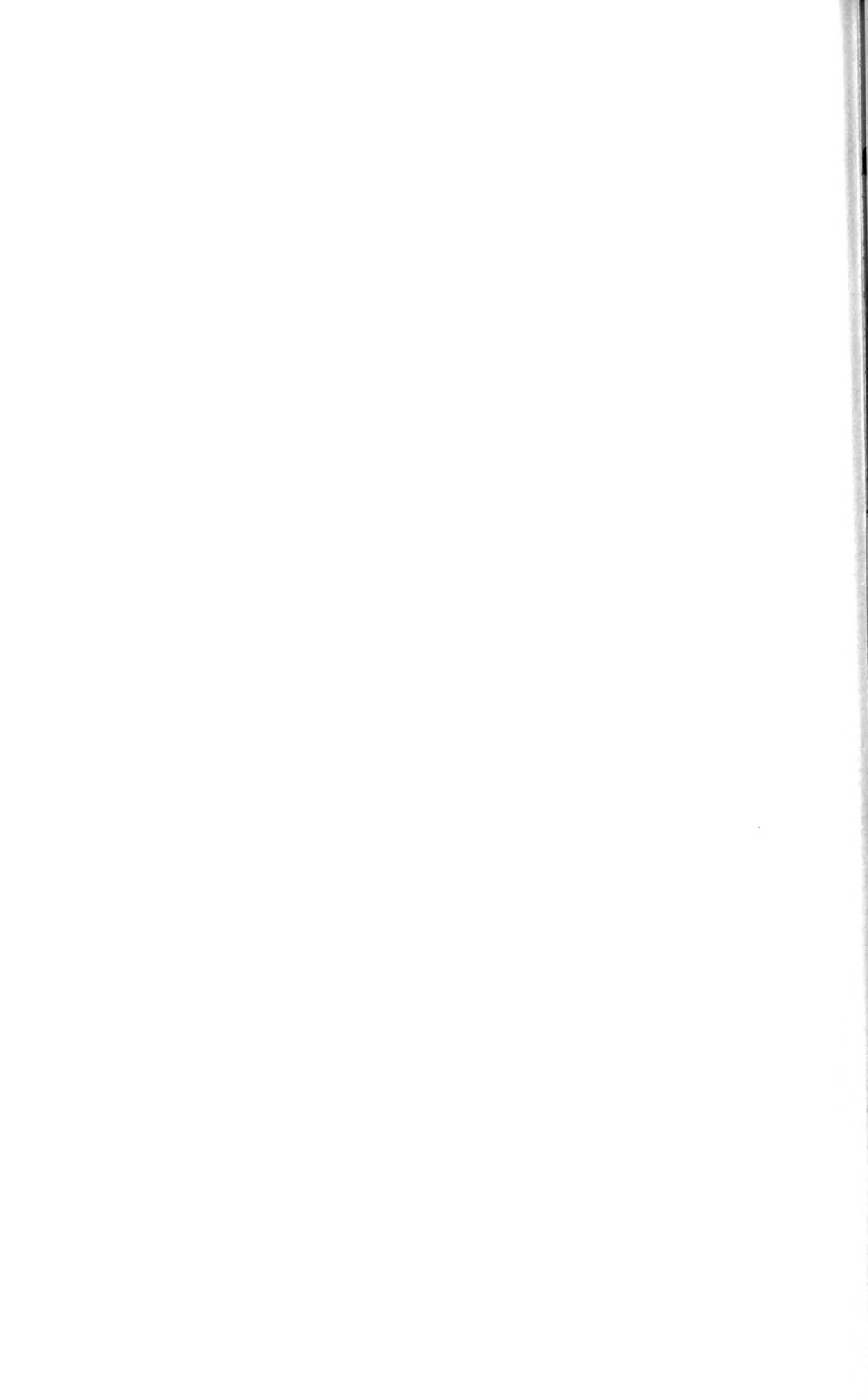
10. This Act does not affect or interfere with the right of any person who is not a member of the Institute to practice as a professional purchaser in the Province of Ontario. Rights not affected

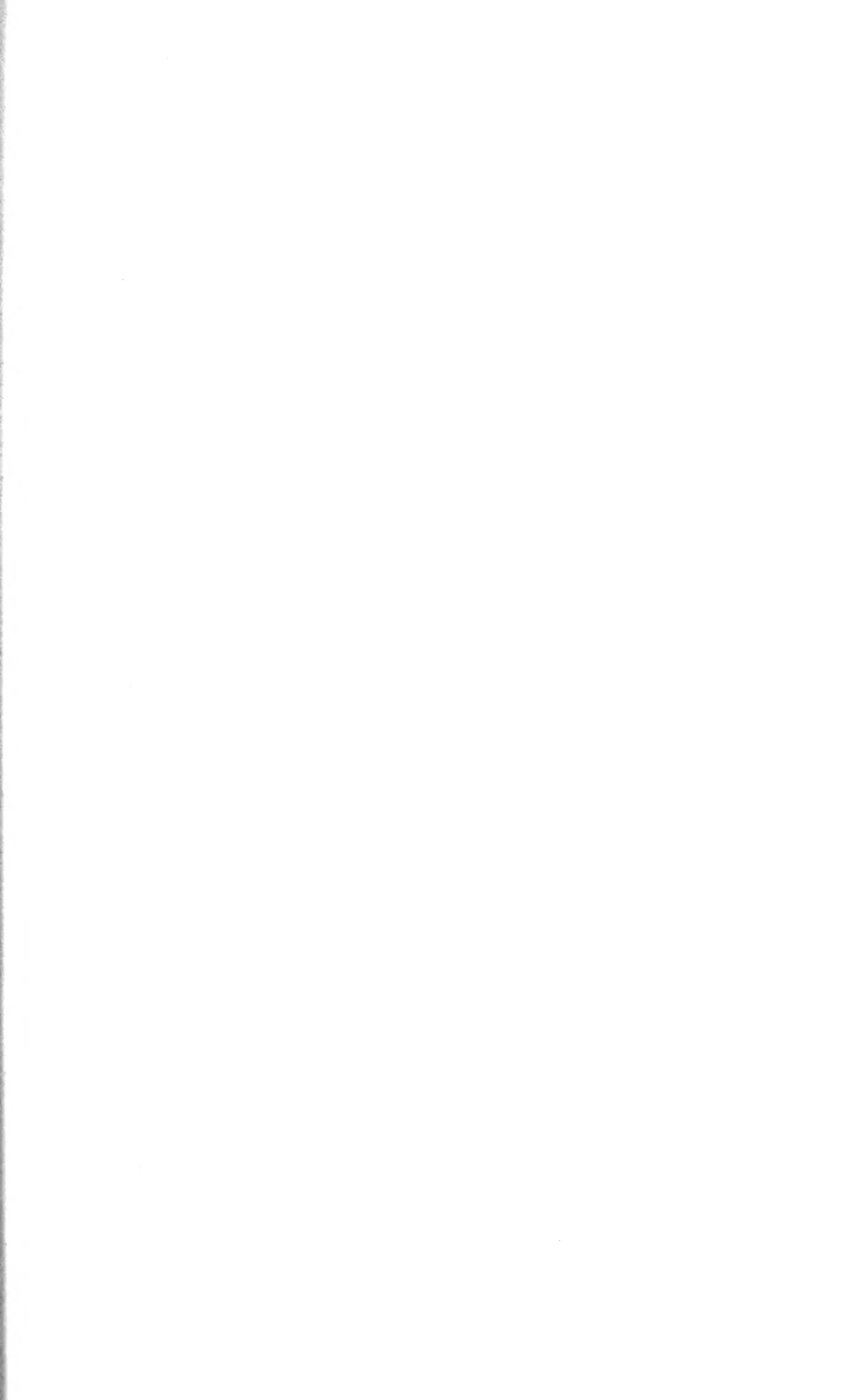
11. All surplus, profits and other accretions derived from carrying on the affairs and business of the Institute shall be devoted and applied solely in promoting and carrying out its objects and purposes without gain to its members and shall not be divided among its members. Profits, etc., not to be distributed to members

12. The Institute or board or any member of the Institute, the board or any standing committee is not liable for any loss or damage suffered by any person as a result of anything done by it or them in good faith in the administration of this Act or by-laws made thereunder. Liability

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

14. The short title of this Act is the *Ontario Institute of the Purchasing Management Association of Canada Inc. Act, 1987*. Short title







Bill Pr67

An Act respecting the City of Hamilton

Mr. Charlton

1st Reading June 24th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill would re-enact section 9 of the *City of Hamilton Act, 1985*. The only substantive change is to increase the number of directors of The Hamilton Entertainment and Convention Facilities Inc. from thirteen to sixteen members. The membership would consist of the mayor and sixteen other members. Of the sixteen, seven shall be members of council and nine shall not be members of council. As the Act now reads, four shall be members of council and nine shall not be members of council.

Bill Pr67

1987

An Act respecting the City of Hamilton

Whereas The Corporation of the City of Hamilton considers it desirable to vary the composition of the board of directors of The Hamilton Entertainment and Convention Facilities Inc., established by the *City of Hamilton Act, 1985*, being chapter Pr23; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application; Preamble

Therefore, 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 *City of Hamilton Act, 1985*, being chapter Pr23, is repealed and the following substituted therefor:

9.—(1) The corporation shall have a board of directors who shall manage, supervise and conduct the affairs of the corporation in accordance with the purposes and objects of the corporation. Board of directors

(2) The board shall be composed of, Composition

(a) the mayor of the City who shall be a director by virtue of office; and

(b) sixteen other members appointed by the council of whom,

(i) seven shall be members of council, and

(ii) nine shall not be members of council.

(3) The directors appointed under subclause (2) (b) (i) shall be appointed for a term of office not exceeding their term of office as members of council. Term of office

(4) Directors appointed under subclause (2) (b) (ii), shall be appointed for a term of three years or such lesser number Idem

of years so that one-third of the directors retires at the end of each year.

Removal

(5) A director may be removed at any time from office by a resolution passed by a majority of the council.

Vacancy

(6) Where the office of a director becomes vacant for any reason, the vacancy may be filled by council for the remainder of the unexpired term of the director whose office is vacant.

Reappointment

(7) A director may be reappointed by council upon expiration of his or her term or otherwise.

Remuneration

(8) Directors may serve without remuneration or with such remuneration as the council may determine.

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 *City of Hamilton Act, 1987*.

Bill Pr68

An Act respecting Windsor Youth Marching and Concert Band

Mr. Newman

1st Reading May 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill Pr68

1987

**An Act respecting
Windsor Youth Marching and Concert Band**

Whereas the Windsor Youth Marching and Concert Band, herein called the Scarlet Brigade, hereby represents that it was incorporated by letters patent dated the 19th day of December, 1977; that the objects of the Scarlet Brigade are to establish, maintain and operate a marching and concert band for the youth of the City of Windsor and County of Essex, to perform at concerts and community events in the Metropolitan Windsor area and to promote and stimulate among the youth of the Metropolitan Windsor area an interest in musical instruments, music and marching band concerts and competitions; that for the attainment of the above objects the Scarlet Brigade conducts and promotes fund raising events in the Metropolitan Windsor area, solicits, receives and holds gifts, donations, legacies and devises; that the Scarlet Brigade has the power to acquire and maintain buildings and exhibition places as necessary to provide its members with a place for rehearsals and show preparation; that the Scarlet Brigade is a registered charitable organization within the meaning of the *Income Tax Act* (Canada); that it is desirable that provision be made for exempting the lands and buildings owned by the Scarlet Brigade and known municipally as 1095 Bartlet Drive in the City of Windsor, more particularly described in the Schedule, from taxation for municipal and school purposes, other than local improvement rates; and whereas the applicant hereby applies for special legislation for such purposes; and whereas it is expedient to grant the application;

Preamble

R.S.O. 1952,
c. 148

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

1.—(1) The council of The Corporation of the City of Windsor may pass by-laws exempting from taxes for municipal and school purposes, other than local improvement rates, the land or any portion thereof, as defined in the *Assessment Act*, being the lands and premises described in the Schedule, so

Tax
exemptionR.S.O. 1980,
c. 31

long as the land is owned, occupied and used solely for the purposes of the Scarlet Brigade.

Conditions (2) An exemption granted under subsection (1) may be subject to such conditions as may be set out in the by-law.

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

Short title 3. The short title of this Act is the *Windsor Youth Marching and Concert Band Act, 1987*.

SCHEDULE

That parcel of land and premises in the City of Windsor in the County of Essex, described as lots 74, 75, 76, 77 and 78, inclusive, according to a Plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as Number 1478.

Bill Pr68

*(Chapter Pr22
Statutes of Ontario, 1987)*

An Act respecting Windsor Youth Marching and Concert Band

Mr. Newman

<i>1st Reading</i>	May 11th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill Pr68

1987

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